

1                                   **SALES AND USE TAX CHANGES**

2   2010 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Wayne A. Harper**

5                                   Senate Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

9           This bill amends the Sales and Use Tax Act, the Rural Health Services chapter, the  
10 Board of Tourism Development part, and related provisions.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ addresses the distribution and expenditure of revenues in the Rural Health Care  
14 Facilities Fund as a result of the repeal of Title 59, Chapter 12, Part 8, Funding for  
15 Health Care;
- 16           ▶ enacts the Rural Health Care Compensation Fund to address the funding of rural  
17 health care as a result of the repeal of Title 59, Chapter 12, Part 8, Funding of  
18 Health Care, and provides for:
  - 19           • deposits of certain sales and use tax revenues into that fund; and
  - 20           • the distribution and expenditure of fund monies;
- 21           ▶ amends the powers and duties of the State Tax Commission to include distributing  
22 monies deposited into the Rural Health Care Compensation Fund;
- 23           ▶ requires adjustments to the property tax certified tax rate under certain  
24 circumstances;
- 25           ▶ enacts and modifies definitions;
- 26           ▶ modifies state and local sales and use tax rates;
- 27           ▶ modifies the distribution of revenues collected from certain local option sales and



- 28 use taxes;
- 29       ▶ repeals certain local option sales and use taxes;
- 30       ▶ modifies an additional state sales and use tax related to transportation and addresses
- 31 the expenditure of revenues collected from the tax;
- 32       ▶ enacts the Tourism, Recreation, Cultural, Convention, and Airport Facilities Fund
- 33 and provides for:
  - 34           • deposits of certain sales and use tax revenues into that fund; and
  - 35           • the distribution and expenditure of fund monies; and
- 36       ▶ makes technical and conforming changes.

37 **Monies Appropriated in this Bill:**

38       None

39 **Other Special Clauses:**

40       This bill takes effect on January 1, 2011.

41       This bill provides revisor instructions.

42       This bill coordinates with S.B. 30, Local Option Sales and Use Taxes for  
43 Transportation Act, by making technical changes.

44 **Utah Code Sections Affected:**

45 AMENDS:

46       **17C-1-408**, as last amended by Laws of Utah 2008, Chapters 61, 231, and 236

47       **26-9-4**, as last amended by Laws of Utah 2009, Chapter 368

48       **26-21b-102**, as enacted by Laws of Utah 2009, Chapter 266

49       **59-1-210**, as last amended by Laws of Utah 2008, Chapters 187 and 382

50       **59-2-924.2**, as last amended by Laws of Utah 2009, Chapter 218

51       **59-12-102**, as last amended by Laws of Utah 2009, Chapters 203 and 314

52       **59-12-103**, as last amended by Laws of Utah 2009, Chapters 203, 344, and 385

53       **59-12-204**, as last amended by Laws of Utah 2009, Chapters 203 and 385

54       **59-12-205**, as last amended by Laws of Utah 2009, Chapters 92 and 203

55       **59-12-211**, as enacted by Laws of Utah 2008, Chapter 384

56       **59-12-603**, as last amended by Laws of Utah 2009, Chapter 7

57       **59-12-703**, as last amended by Laws of Utah 2008, Chapters 382 and 384

58       **59-12-704**, as last amended by Laws of Utah 2003, Chapter 296

- 59           **59-12-1201**, as last amended by Laws of Utah 2009, Chapter 203
- 60           **59-12-1802**, as last amended by Laws of Utah 2008, Chapter 384
- 61           **59-12-2003**, as last amended by Laws of Utah 2009, Chapter 385
- 62           **63H-1-102**, as last amended by Laws of Utah 2009, Chapters 92 and 397

63 ENACTS:

- 64           **26-9-5**, Utah Code Annotated 1953
- 65           **63M-1-1407**, Utah Code Annotated 1953

66 REPEALS:

- 67           **59-12-701**, as last amended by Laws of Utah 2003, Chapter 296
- 68           **59-12-801**, as last amended by Laws of Utah 2006, Chapter 302
- 69           **59-12-802**, as last amended by Laws of Utah 2008, Chapter 384
- 70           **59-12-803**, as last amended by Laws of Utah 2000, Chapter 253
- 71           **59-12-804**, as last amended by Laws of Utah 2008, Chapter 384
- 72           **59-12-805**, as enacted by Laws of Utah 2000, Chapter 253
- 73           **59-12-806**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 74           **59-12-808**, as last amended by Laws of Utah 2009, Chapter 203
- 75           **59-12-809**, as enacted by Laws of Utah 2008, Chapter 384
- 76           **59-12-810**, as enacted by Laws of Utah 2008, Chapter 384
- 77           **59-12-1301**, as enacted by Laws of Utah 1998, Chapter 243
- 78           **59-12-1302**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 79           **59-12-1304**, as last amended by Laws of Utah 2009, Chapter 203
- 80           **59-12-1305**, as enacted by Laws of Utah 2008, Chapter 384
- 81           **59-12-1306**, as enacted by Laws of Utah 2008, Chapter 384
- 82           **59-12-1401**, as last amended by Laws of Utah 2004, Chapter 317
- 83           **59-12-1402**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 84           **59-12-1403**, as enacted by Laws of Utah 2001, Chapter 192
- 85           **59-12-1405**, as last amended by Laws of Utah 2009, Chapter 203
- 86           **59-12-1406**, as enacted by Laws of Utah 2008, Chapter 384
- 87           **59-12-1407**, as enacted by Laws of Utah 2008, Chapter 384

88 **Utah Code Sections Affected by Coordination Clause:**

- 89           **59-12-2003**, as last amended by Laws of Utah 2009, Chapter 385

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **17C-1-408** is amended to read:

**17C-1-408. Base taxable value to be adjusted to reflect other changes.**

(1) (a) (i) As used in this Subsection (1), "qualifying decrease" means:

(A) a decrease of more than 20% from the previous tax year's levy; or

(B) a cumulative decrease over a consecutive five-year period of more than 100% from the levy in effect at the beginning of the five-year period.

(ii) The year in which a qualifying decrease under Subsection (1)(a)(i)(B) occurs is the fifth year of the five-year period.

(b) If there is a qualifying decrease in the minimum basic school levy under Section 59-2-902 that would result in a reduction of the amount of tax increment to be paid to an agency:

(i) the base taxable value of taxable property within the project area shall be reduced in the year of the qualifying decrease to the extent necessary, even if below zero, to provide the agency with approximately the same amount of tax increment that would have been paid to the agency each year had the qualifying decrease not occurred; and

(ii) the amount of tax increment paid to the agency each year for the payment of bonds and indebtedness may not be less than what would have been paid to the agency if there had been no qualifying decrease.

(2) (a) The amount of the base taxable value to be used in determining tax increment shall be:

(i) increased or decreased by the amount of an increase or decrease that results from:

(A) a statute enacted by the Legislature or by the people through an initiative;

(B) a judicial decision;

(C) an order from the State Tax Commission to a county to adjust or factor its assessment rate under Subsection 59-2-704(2);

(D) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section 59-2-103; or

(E) an increase or decrease in the percentage of fair market value, as defined under Section 59-2-102; and

121 (ii) reduced for any year to the extent necessary, even if below zero, to provide an  
122 agency with approximately the same amount of money the agency would have received without  
123 a reduction in the county's certified tax rate if:

124 (A) in that year there is a decrease in the county's certified tax rate under Subsection  
125 59-2-924.2(2)(a) or (3)(a);

126 (B) the amount of the decrease is more than 20% of the county's certified tax rate of the  
127 previous year; and

128 (C) the decrease would result in a reduction of the amount of tax increment to be paid  
129 to the agency.

130 (b) Notwithstanding an increase or decrease under Subsection (2)(a), the amount of tax  
131 increment paid to an agency each year for payment of bonds or other indebtedness may not be  
132 less than would have been paid to the agency each year if there had been no increase or  
133 decrease under Subsection (2)(a).

134 Section 2. Section 26-9-4 is amended to read:

135 **26-9-4. Definitions -- Rural Health Care Facilities Fund -- Source of revenues --**  
136 **Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues**  
137 **lapse into the General Fund.**

138 (1) As used in this section:

139 (a) "Emergency medical services" is as defined in Section 26-8a-102.

140 (b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.

141 (c) "Fiscal year" means a one-year period beginning on July 1 of each year.

142 (d) "Freestanding urgent care center" [~~is as defined in Section 59-12-801.~~] means a  
143 facility that provides outpatient health care service:

144 (i) on an as-needed basis, without an appointment;

145 (ii) to the public;

146 (iii) for the diagnosis and treatment of a medical condition if that medical condition  
147 does not require hospitalization or emergency intervention for a life threatening or potentially  
148 permanently disabling condition; and

149 (iv) including one or more of the following services:

150 (A) a medical history physical examination;

151 (B) an assessment of health status; or

- 152 (C) treatment:
- 153 (I) for a variety of medical conditions; and
- 154 (II) that is commonly offered in a physician's office.
- 155 (e) "Fund" means the Rural Health Care Facilities Fund created by this section.
- 156 (f) "Nursing care facility" is as defined in Section 26-21-2.
- 157 (g) "Qualified expense" means:
- 158 (i) an ongoing operating expense;
- 159 (ii) the acquisition of land;
- 160 (iii) an expense for design, construction, equipping, or furnishing; or
- 161 (iv) a combination of Subsections (1)(g)(i) through (iii).
- 162 (h) "Qualifying tax" means a sales and use tax that:
- 163 (i) a county legislative body or city legislative body imposes to fund rural health care;

164 and

- 165 (ii) is repealed by this bill.

166 ~~[(g)]~~ (i) "Rural city hospital" [is as defined in Section 59-12-801.] means a hospital  
 167 owned by a city if that city is located within a county of the third, fourth, fifth, or sixth class, as  
 168 classified in Section 17-50-501.

169 ~~[(h)]~~ (j) "Rural county health care facility" [is as defined in Section 59-12-801.] means

170 a:

- 171 (i) rural county hospital; or
- 172 (ii) rural county nursing care facility.

173 ~~[(i)]~~ (k) "Rural county hospital" [is as defined in Section 59-12-801.] means a hospital  
 174 owned by a county:

- 175 (i) of the third, fourth, fifth, or sixth class, as classified in Section 17-50-501; and
- 176 (ii) if that county is located outside of a standard metropolitan statistical area, as  
 177 designated by the United States Census Bureau.

178 ~~[(j)]~~ (l) "Rural county nursing care facility" [is as defined in Section 59-12-801.] means  
 179 a nursing care facility owned by a county:

- 180 (i) of the third, fourth, fifth, or sixth class, as classified in Section 17-50-501; and
- 181 (ii) if that county is located outside of a standard metropolitan statistical area, as  
 182 designated by the United States Census Bureau.

183           ~~[(k)]~~ (m) "Rural emergency medical services" ~~[is as defined in Section 59-12-801.]~~  
184 means emergency medical services that are provided by a county:

185           (i) of the third, fourth, fifth, or sixth class, as classified in Section 17-50-501; and

186           (ii) if that county is located outside of a standard metropolitan statistical area, as  
187 designated by the United States Census Bureau.

188           ~~[(t)]~~ (n) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

189           (2) There is created a general fund restricted account known as the Rural Health Care  
190 Facilities Fund.

191           (3) (a) The fund shall be funded by amounts appropriated by the Legislature.

192           (b) Any interest earned on the fund shall be deposited into the General Fund.

193           (4) Subject to Subsection (5), the State Tax Commission shall for a fiscal year  
194 distribute monies deposited into the fund to each:

195           (a) county legislative body of a county that, on January 1, 2007, imposes a ~~[tax in~~  
196 ~~accordance with Section 59-12-802]~~ qualifying tax; or

197           (b) city legislative body of a city that, on January 1, 2007, imposes a ~~[tax in accordance~~  
198 ~~with Section 59-12-804]~~ qualifying tax.

199           (5) (a) For purposes of the distribution required by Subsection (4), the State Tax  
200 Commission shall:

201           (i) estimate for each county and city described in Subsection (4) the amount by which  
202 the revenues collected from ~~[the taxes imposed under Sections 59-12-802 and 59-12-804]~~ a  
203 qualifying tax for fiscal year 2005-06 would have been reduced ~~[had]~~ if:

204           (A) the amendments made by Laws of Utah 2007, Chapter 288, Sections 25 and 26, to  
205 ~~[Sections 59-12-802 and 59-12-804]~~ the qualifying tax had been in effect for fiscal year  
206 2005-06; and

207           (B) each county and city described in Subsection (4) had imposed ~~[the tax under~~  
208 ~~Sections 59-12-802 and 59-12-804]~~ the qualifying tax for the entire fiscal year 2005-06;

209           (ii) calculate a percentage for each county and city described in Subsection (4) by  
210 dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i)  
211 by \$555,000; and

212           (iii) distribute to each county and city described in Subsection (4) an amount equal to  
213 the product of:

214 (A) the percentage calculated in accordance with Subsection (5)(a)(ii); and  
215 (B) the amount appropriated by the Legislature to the fund for the fiscal year.

216 (b) The State Tax Commission shall make the estimations, calculations, and  
217 distributions required by Subsection (5)(a) on the basis of data collected by the State Tax  
218 Commission.

219 (6) (a) Subject to Subsection (6)(b), a county legislative body shall distribute the  
220 monies the county legislative body receives in accordance with Subsection (5):

221 (i) for a county of the third, fourth, or fifth class, to ~~[fund rural county health care~~  
222 ~~facilities in that county; and]~~ finance a qualified expense for one or more rural county health  
223 care facilities within the county; or

224 (ii) for a county of the sixth class, to ~~[fund]~~ finance:

225 (A) a qualified expense for one or more rural emergency medical services in that  
226 county;

227 (B) a qualified expense for one or more federally qualified health centers in that  
228 county;

229 (C) a qualified expense for one or more freestanding urgent care centers in that county;

230 (D) a qualified expense for one or more rural county health care facilities in that  
231 county;

232 (E) a qualified expense for one or more rural health clinics in that county; or

233 (F) a combination of Subsections (6)(a)(ii)(A) through (E).

234 (b) A county legislative body shall distribute a percentage of the monies the county  
235 legislative body receives in accordance with Subsection (5) to each center, clinic, facility, or  
236 service described in Subsection (6)(a) equal to the same percentage that the county legislative  
237 body distributes to that center, clinic, facility, or service ~~[in accordance with Section 59-12-803~~  
238 ~~for the calendar year ending on the December 31 immediately preceding the first day of the~~  
239 ~~fiscal year for which the county legislative body receives the distribution in accordance with~~  
240 ~~Subsection (5)].~~

241 (i) for the calendar year ending on December 31, 2010; and

242 (ii) from the revenues collected from a qualifying tax.

243 (c) (i) A ~~[center, clinic, facility, or service]~~ rural county health care facility within a  
244 county of the third, fourth, or fifth class that receives a distribution in accordance with this

245 Subsection (6) shall expend that distribution [~~for the same purposes for which monies~~  
 246 ~~generated by a tax under Section 59-12-802 may be expended~~] to finance a qualified expense  
 247 for that rural county health care facility.

248 (ii) A center, clinic, facility, or service within a county of the sixth class that receives a  
 249 distribution in accordance with this Subsection (6) shall expend that distribution to finance a  
 250 qualified expense for that center, clinic, facility, or service.

251 (7) (a) Subject to Subsection (7)(b), a city legislative body shall distribute the monies  
 252 the city legislative body receives in accordance with Subsection (5) to fund rural city hospitals  
 253 in that city.

254 (b) A city legislative body shall distribute a percentage of the monies the city  
 255 legislative body receives in accordance with Subsection (5) to each rural city hospital described  
 256 in Subsection (7)(a) equal to the same percentage that the city legislative body distributes to  
 257 that rural city hospital [~~in accordance with Section 59-12-805 for the calendar year ending on~~  
 258 ~~the December 31 immediately preceding the first day of the fiscal year for which the city~~  
 259 ~~legislative body receives the distribution in accordance with Subsection (5)].:~~

260 (i) for the calendar year ending on December 31, 2010; and

261 (ii) from revenues collected from a qualifying tax.

262 (c) A rural city hospital that receives a distribution in accordance with this Subsection  
 263 (7) shall expend that distribution [~~for the same purposes for which monies generated by a tax~~  
 264 ~~under Section 59-12-804 may be expended~~] to finance a qualified expense for that rural city  
 265 hospital.

266 (8) Any monies remaining in the Rural Health Care Facilities Fund at the end of a  
 267 fiscal year after the State Tax Commission makes the distributions required by this section  
 268 shall lapse into the General Fund.

269 Section 3. Section **26-9-5** is enacted to read:

270 **26-9-5. Definitions -- Rural Health Care Compensation Fund -- Source of**  
 271 **revenues -- Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended**  
 272 **revenues lapse into the General Fund.**

273 (1) As used in this section:

274 (a) "Emergency medical services" is as defined in Section 26-9-4.

275 (b) "Federally qualified health center" is as defined in Section 26-9-4.

- 276 (c) "Fiscal year" means a one-year period beginning on July 1 of each year.
- 277 (d) "Freestanding urgent care center" is as defined in Section 26-9-4.
- 278 (e) "Fund" means the Rural Health Care Compensation Fund created by this section.
- 279 (f) "Nursing care facility" is as defined in Section 26-9-4.
- 280 (g) "Qualified expense" is as defined in Section 26-9-4.
- 281 (h) "Qualifying tax" is as defined in Section 26-9-4.
- 282 (i) "Rural city hospital" is as defined in Section 26-9-4.
- 283 (j) "Rural county health care facility" is as defined in Section 26-9-4.
- 284 (k) "Rural county hospital" is as defined in Section 26-9-4.
- 285 (l) "Rural county nursing care facility" is as defined in Section 26-9-4.
- 286 (m) "Rural emergency medical services" is as defined in Section 26-9-4.
- 287 (n) "Rural health clinic" is as defined in Section 26-9-4.
- 288 (2) There is created a restricted special revenue fund known as the "Rural Health Care  
289 Compensation Fund."
- 290 (3) (a) The fund shall be funded by amounts deposited in accordance with Subsection  
291 59-12-103(13).
- 292 (b) Any interest earned on the fund shall be deposited into the General Fund.
- 293 (4) Subject to Subsection (5), the State Tax Commission shall within a 30-day period  
294 after the last day of a fiscal year distribute monies deposited into the fund to each:
- 295 (a) county legislative body of a county that, on December 31, 2010, imposes a  
296 qualifying tax; or
- 297 (b) city legislative body of a city that, on December 31, 2010, imposes a qualifying tax.
- 298 (5) (a) For purposes of the distribution required by Subsection (4), the State Tax  
299 Commission shall:
- 300 (i) estimate for each county and city described in Subsection (4) the amount of  
301 revenues that would have been collected from a qualifying tax for fiscal year 2008-09 had the  
302 county or city imposed the qualifying tax for the entire fiscal year 2008-09;
- 303 (ii) calculate a percentage for each county and city described in Subsection (4) by  
304 dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i)  
305 by the total amount deposited in accordance with Subsection 59-12-103(13):
- 306 (A) for the time period beginning on January 1, 2011, and ending on June 30, 2011, for

307 that time period; or  
308 (B) for a fiscal year beginning with fiscal year 2011-12, for that fiscal year; and  
309 (iii) distribute to each county and city described in Subsection (4) an amount equal to  
310 the product of:  
311 (A) the percentage calculated in accordance with Subsection (5)(a)(ii); and  
312 (B) the total amount deposited in accordance with Subsection 59-12-103(13):  
313 (I) for the time period beginning on January 1, 2011, and ending on June 30, 2011, for  
314 that time period; or  
315 (II) for a fiscal year beginning with fiscal year 2011-12, for that fiscal year.  
316 (b) The State Tax Commission shall make the estimates, calculations, and distributions  
317 required by Subsection (5)(a) on the basis of data collected by the State Tax Commission.  
318 (6) (a) Subject to Subsection (6)(b), a county legislative body shall distribute the  
319 monies the county legislative body receives in accordance with Subsection (5):  
320 (i) for a county of the third, fourth, or fifth class, to finance a qualified expense for one  
321 or more rural county health care facilities within the county; or  
322 (ii) for a county of the sixth class, to finance:  
323 (A) a qualified expense for one or more rural emergency medical services in that  
324 county;  
325 (B) a qualified expense for one or more federally qualified health centers in that  
326 county;  
327 (C) a qualified expense for one or more freestanding urgent care centers in that county;  
328 (D) a qualified expense for one or more rural county health care facilities in that  
329 county;  
330 (E) a qualified expense for one or more rural health clinics in that county; or  
331 (F) a combination of Subsections (6)(a)(ii)(A) through (E).  
332 (b) A county legislative body shall distribute a percentage of the monies the county  
333 legislative body receives in accordance with Subsection (5) to each center, clinic, facility, or  
334 service described in Subsection (6)(a) equal to the same percentage that the county legislative  
335 body distributes to that center, clinic, facility, or service:  
336 (i) for the calendar year ending on December 31, 2010; and  
337 (ii) from revenues collected from a qualifying tax.

338 (c) (i) A rural county health care facility within a county of the third, fourth, or fifth  
339 class that receives a distribution in accordance with this Subsection (6) shall expend that  
340 distribution to finance a qualified expense for that rural county health care facility.

341 (ii) A center, clinic, facility, or service within a county of the sixth class that receives a  
342 distribution in accordance with this Subsection (6) shall expend that distribution to finance a  
343 qualified expense for that center, clinic, facility, or service.

344 (7) (a) Subject to Subsection (7)(b), a city legislative body shall distribute the monies  
345 the city legislative body receives in accordance with Subsection (5) to fund one or more rural  
346 city hospitals in that city.

347 (b) A city legislative body shall distribute a percentage of the monies the city  
348 legislative body receives in accordance with Subsection (5) to each rural city hospital described  
349 in Subsection (7)(a) equal to the same percentage that the city legislative body distributes to  
350 that rural city hospital:

351 (i) for the calendar year ending on December 31, 2010; and

352 (ii) from revenues collected from a qualifying tax.

353 (c) A rural city hospital that receives a distribution in accordance with this Subsection  
354 (7) shall expend that distribution to finance a qualified expense for that rural city hospital.

355 (8) Any monies remaining in the fund at the end of a fiscal year after the State Tax  
356 Commission makes the distributions required by this section shall lapse into the General Fund.

357 Section 4. Section **26-21b-102** is amended to read:

358 **26-21b-102. Definitions.**

359 As used in this chapter:

360 (1) "Designated facility" means:

361 (a) a freestanding urgent care center, as defined in Section ~~[59-12-801]~~ 26-9-4;

362 (b) a general acute hospital, as defined in Section 26-21-2; or

363 (c) a critical access hospital that meets the criteria of 42 U.S.C. 1395i-4(c)(2) (1998).

364 (2) "Emergency contraception" means the use of a substance, approved by the United  
365 States Food and Drug Administration, to prevent pregnancy after sexual intercourse.

366 (3) "Physician" means a person:

367 (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

368 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical

369 Practice Act.

370 (4) "Practitioner" means:

371 (a) a physician; or

372 (b) any other person who is permitted by law to prescribe emergency contraception.

373 (5) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part  
374 4, Sexual Offenses, that may result in a pregnancy.

375 (6) "Victim of sexual assault" means any person who presents to receive, or receives,  
376 medical care in consequence of being subjected to sexual assault.

377 Section 5. Section **59-1-210** is amended to read:

378 **59-1-210. General powers and duties.**

379 The powers and duties of the commission are as follows:

380 (1) to sue and be sued in its own name;

381 (2) to adopt rules and policies consistent with the Constitution and laws of this state to  
382 govern the commission, executive director, division directors, and commission employees in  
383 the performance of their duties;

384 (3) to adopt rules and policies consistent with the Constitution and laws of the state, to  
385 govern county boards and officers in the performance of any duty relating to assessment,  
386 equalization, and collection of taxes;

387 (4) to prescribe the use of forms relating to the assessment of property for state or local  
388 taxation, the equalization of those assessments, the reporting of property or income for state or  
389 local taxation purposes, or for the computation of those taxes and the reporting of any  
390 information, statistics, or data required by the commission;

391 (5) to administer and supervise the tax laws of the state;

392 (6) to prepare and maintain from year to year a complete record of all lands subject to  
393 taxation in this state, and all machinery used in mining and all property or surface  
394 improvements upon or appurtenant to mines or mining claims;

395 (7) to exercise general supervision over assessors and county boards of equalization  
396 including the authority to enforce Section 59-2-303.1, and over other county officers in the  
397 performance of their duties relating to the assessment of property and collection of taxes, so  
398 that all assessments of property are just and equal, according to fair market value, and that the  
399 tax burden is distributed without favor or discrimination;

400 (8) to reconvene any county board of equalization which, when reconvened, may only  
401 address business approved by the commission and extend the time for which any county board  
402 of equalization may sit for the equalization of assessments;

403 (9) to confer with, advise, and direct county treasurers, assessors, and other county  
404 officers in matters relating to the assessment and equalization of property for taxation and the  
405 collection of taxes;

406 (10) to provide for and hold annually at such time and place as may be convenient a  
407 district or state convention of county assessors, auditors, and other county officers to consider  
408 and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative  
409 to taxation and methods of assessment, to which county assessors and other officers called to  
410 attend shall attend at county expense;

411 (11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the  
412 penalties, liabilities, and punishments of public officers, persons, and officers or agents of  
413 corporations for failure or neglect to comply with the statutes governing the reporting,  
414 assessment, and taxation of property;

415 (12) to cause complaints to be made in the proper court seeking removal from office of  
416 assessors, auditors, members of county boards, and other assessing, taxing, or disbursing  
417 officers, who are guilty of official misconduct or neglect of duty;

418 (13) to require county attorneys to immediately institute and prosecute actions and  
419 proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the  
420 laws relating to the assessment and taxation of property in their respective counties;

421 (14) to require any person to furnish any information required by the commission to  
422 ascertain the value and the relative burden borne by all kinds of property in the state, and to  
423 require from all state and local officers any information necessary for the proper discharge of  
424 the duties of the commission;

425 (15) to examine all records relating to the valuation of property of any person;

426 (16) to subpoena witnesses to appear and give testimony and produce records relating  
427 to any matter before the commission;

428 (17) to cause depositions of witnesses to be taken as in civil actions at the request of  
429 the commission or any party to any matter or proceeding before the commission;

430 (18) to authorize any member or employee of the commission to administer oaths and

431 affirmations in any matter or proceeding relating to the exercise of the powers and duties of the  
432 commission;

433 (19) to visit periodically each county of the state, to investigate and direct the work and  
434 methods of local assessors and other officials in the assessment, equalization, and taxation of  
435 property, and to ascertain whether the law requiring the assessment of all property not exempt  
436 from taxation, and the collection of taxes, have been properly administered and enforced;

437 (20) to carefully examine all cases where evasion or violation of the laws for  
438 assessment and taxation of property is alleged, to ascertain whether existing laws are defective  
439 or improperly administered;

440 (21) to furnish to the governor from time to time such assistance and information as the  
441 governor requires;

442 (22) to transmit to the governor and to each member of the Legislature  
443 recommendations as to legislation which will correct or eliminate defects in the operation of  
444 the tax laws and will equalize the burden of taxation within the state;

445 (23) to correct any error in any assessment made by it at any time before the tax is due  
446 and report the correction to the county auditor, who shall enter the corrected assessment upon  
447 the assessment roll;

448 (24) to compile and publish statistics relating to taxation in the state and prepare and  
449 submit an annual budget to the governor for inclusion in the state budget to be submitted to the  
450 Legislature;

451 (25) to perform any further duties imposed by law, and exercise all powers necessary in  
452 the performance of its duties;

453 (26) to adopt a schedule of fees assessed for services provided by the commission,  
454 unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the  
455 cost of services provided. Each fee established in this manner shall be submitted to and  
456 approved by the Legislature as part of the commission's annual appropriations request. The  
457 commission may not charge or collect any fee proposed in this manner without approval by the  
458 Legislature;

459 (27) to comply with the procedures and requirements of Title 63G, Chapter 4,  
460 Administrative Procedures Act, in its adjudicative proceedings; and

461 (28) to distribute the monies deposited into the;

462 (a) Rural Health Care Facilities Fund as required by Section 26-9-4[-]; and

463 (b) Rural Health Care Compensation Fund as required by Section 26-9-5.

464 Section 6. Section **59-2-924.2** is amended to read:

465 **59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.**

466 (1) For purposes of this section, "certified tax rate" means a certified tax rate calculated  
467 in accordance with Section 59-2-924.

468 (2) (a) Beginning January 1, 1997, if a taxing entity receives increased revenues from  
469 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
470 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter  
471 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax  
472 rate to offset the increased revenues.

473 (b) A taxing entity shall decrease its certified tax rate to offset increased revenues from  
474 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
475 59-2-405.2, or 59-2-405.3 if:

476 (i) the county within which the taxing entity is located:

477 (A) on December 31, 2010, does not impose a sales and use tax in accordance with  
478 Section 59-12-703; and

479 (B) on or after January 1, 2011, imposes a tax in accordance with Section 59-12-703;  
480 and

481 (ii) the taxing entity receives increased revenues from uniform fees on tangible  
482 personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as  
483 a result of the county imposing a sales and use tax under Section 59-12-703.

484 (3) (a) [Beginning] Subject to Subsection (3)(c), beginning on July 1, 1997, if a county  
485 has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax,  
486 the county's certified tax rate shall be:

487 (i) decreased on a one-time basis by the amount of the estimated sales and use tax  
488 revenue to be distributed to the county under Subsection 59-12-1102(3); and

489 (ii) increased by the amount necessary to offset the county's reduction in revenue from  
490 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
491 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection  
492 (3)(a)(i).

493 ~~[(b) The commission shall determine estimates of sales and use tax distributions for~~  
494 ~~purposes of Subsection (3)(a):]~~

495 (b) Subject to Subsections (3)(c) and (d), if a county that, on December 31, 2010, does  
496 not impose a sales and use tax in accordance with Section 59-12-703, imposes a sales and use  
497 tax in accordance with Section 59-12-703 on or after January 1, 2011, the county's certified tax  
498 rate shall be:

499 (i) decreased on a one-time basis by the amount of the estimated sales and use tax  
500 revenue under Section 59-12-703 to be distributed to the county for the first year that the  
501 county imposes the tax; and

502 (ii) increased by the amount necessary to offset the county's reduction in revenue from  
503 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
504 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection  
505 (2)(b).

506 (c) The commission shall determine estimates of sales and use tax distributions for  
507 purposes of Subsections (3)(a)(i) and (b)(i).

508 (d) A certified tax rate increase or decrease required by Subsection (3)(b) shall be  
509 made:

510 (i) for the calendar year beginning on the January 1 of the year in which the sales and  
511 use tax is imposed that requires the certified tax rate to be increased or decreased in accordance  
512 with Subsection (3)(b) if that sales and use tax is imposed for the first time on January 1 or  
513 April 1; or

514 (ii) for the calendar year beginning on the January 1 of the year immediately following  
515 the year in which the sales and use tax is imposed that requires the certified tax rate to be  
516 increased or decreased in accordance with Subsection (3)(b) if that sales and use tax is imposed  
517 for the first time on July 1 or October 1.

518 (4) Beginning January 1, 1998, if a municipality has imposed an additional resort  
519 communities sales and use tax under Section 59-12-402, the municipality's certified tax rate  
520 shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of  
521 estimated revenue from the additional resort communities sales and use tax imposed under  
522 Section 59-12-402.

523 (5) (a) This Subsection (5) applies to each county that:

524 (i) establishes a countywide special service district under Title 17D, Chapter 1, Special  
525 Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

526 (ii) levies a property tax on behalf of the special service district under Section  
527 17D-1-105.

528 (b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be  
529 decreased by the amount necessary to reduce county revenues by the same amount of revenues  
530 that will be generated by the property tax imposed on behalf of the special service district.

531 (ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the  
532 levy on behalf of the special service district under Section 17D-1-105.

533 (6) (a) As used in this Subsection (6):

534 (i) "Annexing county" means a county whose unincorporated area is included within a  
535 public safety district by annexation.

536 (ii) "Annexing municipality" means a municipality whose area is included within a  
537 public safety district by annexation.

538 (iii) "Equalized public safety protection tax rate" means the tax rate that results from:

539 (A) calculating, for each participating county and each participating municipality, the  
540 property tax revenue necessary:

541 (I) in the case of a fire district, to cover all of the costs associated with providing fire  
542 protection, paramedic, and emergency services:

543 (Aa) for a participating county, in the unincorporated area of the county; and

544 (Bb) for a participating municipality, in the municipality; or

545 (II) in the case of a police district, to cover all the costs:

546 (Aa) associated with providing law enforcement service:

547 (Ii) for a participating county, in the unincorporated area of the county; and

548 (Iiii) for a participating municipality, in the municipality; and

549 (Bb) that the police district board designates as the costs to be funded by a property  
550 tax; and

551 (B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all  
552 participating counties and all participating municipalities and then dividing that sum by the  
553 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

554 (I) for participating counties, in the unincorporated area of all participating counties;

555 and

556 (II) for participating municipalities, in all the participating municipalities.

557 (iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service  
558 Area Act:

559 (A) created to provide fire protection, paramedic, and emergency services; and

560 (B) in the creation of which an election was not required under Subsection  
561 17B-1-214(3)(c).

562 (v) "Participating county" means a county whose unincorporated area is included  
563 within a public safety district at the time of the creation of the public safety district.

564 (vi) "Participating municipality" means a municipality whose area is included within a  
565 public safety district at the time of the creation of the public safety district.

566 (vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service  
567 Area Act, within a county of the first class:

568 (A) created to provide law enforcement service; and

569 (B) in the creation of which an election was not required under Subsection  
570 17B-1-214(3)(c).

571 (viii) "Public safety district" means a fire district or a police district.

572 (ix) "Public safety service" means:

573 (A) in the case of a public safety district that is a fire district, fire protection,  
574 paramedic, and emergency services; and

575 (B) in the case of a public safety district that is a police district, law enforcement  
576 service.

577 (b) In the first year following creation of a public safety district, the certified tax rate of  
578 each participating county and each participating municipality shall be decreased by the amount  
579 of the equalized public safety tax rate.

580 (c) In the first budget year following annexation to a public safety district, the certified  
581 tax rate of each annexing county and each annexing municipality shall be decreased by an  
582 amount equal to the amount of revenue budgeted by the annexing county or annexing  
583 municipality:

584 (i) for public safety service; and

585 (ii) in:

586 (A) for a taxing entity operating under a January 1 through December 31 fiscal year,  
587 the prior calendar year; or

588 (B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior  
589 fiscal year.

590 (d) Each tax levied under this section by a public safety district shall be considered to  
591 be levied by:

592 (i) each participating county and each annexing county for purposes of the county's tax  
593 limitation under Section 59-2-908; and

594 (ii) each participating municipality and each annexing municipality for purposes of the  
595 municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a  
596 city.

597 (e) The calculation of a public safety district's certified tax rate for the year of  
598 annexation shall be adjusted to include an amount of revenue equal to one half of the amount  
599 of revenue budgeted by the annexing entity for public safety service in the annexing entity's  
600 prior fiscal year if:

601 (i) the public safety district operates on a January 1 through December 31 fiscal year;

602 (ii) the public safety district approves an annexation of an entity operating on a July 1  
603 through June 30 fiscal year; and

604 (iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

605 (7) For the calendar year beginning on January 1, 2007, the calculation of a taxing  
606 entity's certified tax rate, calculated in accordance with Section 59-2-924, shall be adjusted by  
607 the amount necessary to offset any change in the certified tax rate that may result from  
608 excluding the following from the certified tax rate under Subsection 59-2-924(3) enacted by the  
609 Legislature during the 2007 General Session:

610 (a) personal property tax revenue:

611 (i) received by a taxing entity;

612 (ii) assessed by a county assessor in accordance with Part 3, County Assessment; and

613 (iii) for personal property that is semiconductor manufacturing equipment; or

614 (b) the taxable value of personal property:

615 (i) contained on the tax rolls of a taxing entity;

616 (ii) assessed by a county assessor in accordance with Part 3, County Assessment; and

617 (iii) that is semiconductor manufacturing equipment.

618 (8) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be  
619 reduced for any year to the extent necessary to provide a community development and renewal  
620 agency established under Title 17C, Limited Purpose Local Government Entities - Community  
621 Development and Renewal Agencies, with approximately the same amount of money the  
622 agency would have received without a reduction in the county's certified tax rate, calculated in  
623 accordance with Section 59-2-924, if:

624 (i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

625 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the  
626 previous year; and

627 (iii) the decrease results in a reduction of the amount to be paid to the agency under  
628 Section 17C-1-403 or 17C-1-404.

629 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any  
630 year to the extent necessary to provide a community development and renewal agency with  
631 approximately the same amount of money as the agency would have received without an  
632 increase in the certified tax rate that year if:

633 (i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to  
634 a decrease in the certified tax rate under Subsection (2) or (3)(a); and

635 (ii) the certified tax rate of a city, school district, local district, or special service  
636 district increases independent of the adjustment to the taxable value of the base year.

637 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a),  
638 the amount of money allocated and, when collected, paid each year to a community  
639 development and renewal agency established under Title 17C, Limited Purpose Local  
640 Government Entities - Community Development and Renewal Agencies, for the payment of  
641 bonds or other contract indebtedness, but not for administrative costs, may not be less than that  
642 amount would have been without a decrease in the certified tax rate under Subsection (2) or  
643 (3)(a).

644 Section 7. Section **59-12-102** is amended to read:

645 **59-12-102. Definitions.**

646 As used in this chapter:

647 (1) "800 service" means a telecommunications service that:

648 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and  
649 (b) is typically marketed:  
650 (i) under the name 800 toll-free calling;  
651 (ii) under the name 855 toll-free calling;  
652 (iii) under the name 866 toll-free calling;  
653 (iv) under the name 877 toll-free calling;  
654 (v) under the name 888 toll-free calling; or  
655 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the  
656 Federal Communications Commission.  
657 (2) (a) "900 service" means an inbound toll telecommunications service that:  
658 (i) a subscriber purchases;  
659 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to  
660 the subscriber's:  
661 (A) prerecorded announcement; or  
662 (B) live service; and  
663 (iii) is typically marketed:  
664 (A) under the name 900 service; or  
665 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal  
666 Communications Commission.  
667 (b) "900 service" does not include a charge for:  
668 (i) a collection service a seller of a telecommunications service provides to a  
669 subscriber; or  
670 (ii) the following a subscriber sells to the subscriber's customer:  
671 (A) a product; or  
672 (B) a service.  
673 (3) (a) "Admission or user fees" includes season passes.  
674 (b) "Admission or user fees" does not include annual membership dues to private  
675 organizations.  
676 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
677 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
678 Agreement after November 12, 2002.

- 679 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 680 (a) listed under Subsection (6); and
- 681 (b) that are imposed within a local taxing jurisdiction.
- 682 (6) "Agreement sales and use tax" means a tax imposed under:
- 683 (a) Subsection 59-12-103(2)(a)(i)(A);
- 684 (b) Subsection 59-12-103(2)(b)(i);
- 685 (c) Subsection 59-12-103(2)(c)(i);
- 686 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 687 (e) Section 59-12-204;
- 688 (f) Section 59-12-401;
- 689 (g) Section 59-12-402;
- 690 (h) Section 59-12-501;
- 691 (i) Section 59-12-502;
- 692 (j) Section 59-12-703;
- 693 [~~(k) Section 59-12-802;~~]
- 694 [~~(l) Section 59-12-804;~~]
- 695 [~~(m)~~] (k) Section 59-12-1001;
- 696 [~~(n)~~] (l) Section 59-12-1102;
- 697 [~~(o) Section 59-12-1302;~~]
- 698 [~~(p) Section 59-12-1402;~~]
- 699 [~~(q)~~] (m) Section 59-12-1503;
- 700 [~~(r)~~] (n) Section 59-12-1703;
- 701 [~~(s)~~] (o) Section 59-12-1802;
- 702 [~~(t)~~] (p) Section 59-12-1903;
- 703 [~~(u)~~] (q) Section 59-12-2003; or
- 704 [~~(v)~~] (r) Section 59-12-2103.
- 705 (7) "Aircraft" is as defined in Section 72-10-102.
- 706 (8) "Alcoholic beverage" means a beverage that:
- 707 (a) is suitable for human consumption; and
- 708 (b) contains .5% or more alcohol by volume.
- 709 (9) (a) "Ancillary service" means a service associated with, or incidental to, the

710 provision of telecommunications service.

711 (b) "Ancillary service" includes:

712 (i) a conference bridging service;

713 (ii) a detailed communications billing service;

714 (iii) directory assistance;

715 (iv) a vertical service; or

716 (v) a voice mail service.

717 (10) "Area agency on aging" is as defined in Section 62A-3-101.

718 (11) "Assisted amusement device" means an amusement device, skill device, or ride  
719 device that is started and stopped by an individual:

720 (a) who is not the purchaser or renter of the right to use or operate the amusement  
721 device, skill device, or ride device; and

722 (b) at the direction of the seller of the right to use the amusement device, skill device,  
723 or ride device.

724 (12) "Assisted cleaning or washing of tangible personal property" means cleaning or  
725 washing of tangible personal property if the cleaning or washing labor is primarily performed  
726 by an individual:

727 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
728 property; and

729 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
730 property.

731 (13) "Authorized carrier" means:

732 (a) in the case of vehicles operated over public highways, the holder of credentials  
733 indicating that the vehicle is or will be operated pursuant to both the International Registration  
734 Plan and the International Fuel Tax Agreement;

735 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
736 certificate or air carrier's operating certificate; or

737 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
738 stock, the holder of a certificate issued by the United States Surface Transportation Board.

739 (14) (a) Except as provided in Subsection (14)(b), "biomass energy" means any of the  
740 following that is used as the primary source of energy to produce fuel or electricity:

- 741 (i) material from a plant or tree; or  
742 (ii) other organic matter that is available on a renewable basis, including:  
743 (A) slash and brush from forests and woodlands;  
744 (B) animal waste;  
745 (C) methane produced:  
746 (I) at landfills; or  
747 (II) as a byproduct of the treatment of wastewater residuals;  
748 (D) aquatic plants; and  
749 (E) agricultural products.
- 750 (b) "Biomass energy" does not include:  
751 (i) black liquor;  
752 (ii) treated woods; or  
753 (iii) biomass from municipal solid waste other than methane produced:  
754 (A) at landfills; or  
755 (B) as a byproduct of the treatment of wastewater residuals.
- 756 (15) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
757 property, products, or services if the tangible personal property, products, or services are:  
758 (i) distinct and identifiable; and  
759 (ii) sold for one nonitemized price.
- 760 (b) "Bundled transaction" does not include:  
761 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on  
762 the basis of the selection by the purchaser of the items of tangible personal property included in  
763 the transaction;  
764 (ii) the sale of real property;  
765 (iii) the sale of services to real property;  
766 (iv) the retail sale of tangible personal property and a service if:  
767 (A) the tangible personal property:  
768 (I) is essential to the use of the service; and  
769 (II) is provided exclusively in connection with the service; and  
770 (B) the service is the true object of the transaction;  
771 (v) the retail sale of two services if:

- 772 (A) one service is provided that is essential to the use or receipt of a second service;
- 773 (B) the first service is provided exclusively in connection with the second service; and
- 774 (C) the second service is the true object of the transaction;

775 (vi) a transaction that includes tangible personal property or a product subject to  
776 taxation under this chapter and tangible personal property or a product that is not subject to  
777 taxation under this chapter if the:

778 (A) seller's purchase price of the tangible personal property or product subject to  
779 taxation under this chapter is de minimis; or

780 (B) seller's sales price of the tangible personal property or product subject to taxation  
781 under this chapter is de minimis; and

782 (vii) the retail sale of tangible personal property that is not subject to taxation under  
783 this chapter and tangible personal property that is subject to taxation under this chapter if:

784 (A) that retail sale includes:

785 (I) food and food ingredients;

786 (II) a drug;

787 (III) durable medical equipment;

788 (IV) mobility enhancing equipment;

789 (V) an over-the-counter drug;

790 (VI) a prosthetic device; or

791 (VII) a medical supply; and

792 (B) subject to Subsection (15)(f):

793 (I) the seller's purchase price of the tangible personal property subject to taxation under  
794 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

795 (II) the seller's sales price of the tangible personal property subject to taxation under  
796 this chapter is 50% or less of the seller's total sales price of that retail sale.

797 (c) (i) For purposes of Subsection (15)(a)(i), tangible personal property, a product, or a  
798 service that is distinct and identifiable does not include:

799 (A) packaging that:

800 (I) accompanies the sale of the tangible personal property, product, or service; and

801 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
802 service;

803 (B) tangible personal property, a product, or a service provided free of charge with the  
804 purchase of another item of tangible personal property, a product, or a service; or

805 (C) an item of tangible personal property, a product, or a service included in the  
806 definition of "purchase price."

807 (ii) For purposes of Subsection (15)(c)(i)(B), an item of tangible personal property, a  
808 product, or a service is provided free of charge with the purchase of another item of tangible  
809 personal property, a product, or a service if the sales price of the purchased item of tangible  
810 personal property, product, or service does not vary depending on the inclusion of the tangible  
811 personal property, product, or service provided free of charge.

812 (d) (i) For purposes of Subsection (15)(a)(ii), property sold for one nonitemized price  
813 does not include a price that is separately identified by product on the following, regardless of  
814 whether the following is in paper format or electronic format:

815 (A) a binding sales document; or

816 (B) another supporting sales-related document that is available to a purchaser.

817 (ii) For purposes of Subsection (15)(d)(i), a binding sales document or another  
818 supporting sales-related document that is available to a purchaser includes:

819 (A) a bill of sale;

820 (B) a contract;

821 (C) an invoice;

822 (D) a lease agreement;

823 (E) a periodic notice of rates and services;

824 (F) a price list;

825 (G) a rate card;

826 (H) a receipt; or

827 (I) a service agreement.

828 (e) (i) For purposes of Subsection (15)(b)(vi), the sales price of tangible personal  
829 property or a product subject to taxation under this chapter is de minimis if:

830 (A) the seller's purchase price of the tangible personal property or product is 10% or  
831 less of the seller's total purchase price of the bundled transaction; or

832 (B) the seller's sales price of the tangible personal property or product is 10% or less of  
833 the seller's total sales price of the bundled transaction.

834 (ii) For purposes of Subsection (15)(b)(vi), a seller:

835 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
836 purchase price or sales price of the tangible personal property or product subject to taxation  
837 under this chapter is de minimis; and

838 (B) may not use a combination of the seller's purchase price and the seller's sales price  
839 to determine if the purchase price or sales price of the tangible personal property or product  
840 subject to taxation under this chapter is de minimis.

841 (iii) For purposes of Subsection (15)(b)(vi), a seller shall use the full term of a service  
842 contract to determine if the sales price of tangible personal property or a product is de minimis.

843 (f) For purposes of Subsection (15)(b)(vii)(B), a seller may not use a combination of  
844 the seller's purchase price and the seller's sales price to determine if tangible personal property  
845 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
846 price of that retail sale.

847 (16) "Certified automated system" means software certified by the governing board of  
848 the agreement that:

849 (a) calculates the agreement sales and use tax imposed within a local taxing  
850 jurisdiction:

851 (i) on a transaction; and

852 (ii) in the states that are members of the agreement;

853 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
854 member of the agreement; and

855 (c) maintains a record of the transaction described in Subsection (16)(a)(i).

856 (17) "Certified service provider" means an agent certified:

857 (a) by the governing board of the agreement; and

858 (b) to perform all of a seller's sales and use tax functions for an agreement sales and  
859 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's  
860 own purchases.

861 (18) (a) Subject to Subsection (18)(b), "clothing" means all human wearing apparel  
862 suitable for general use.

863 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
864 commission shall make rules:

865 (i) listing the items that constitute "clothing"; and

866 (ii) that are consistent with the list of items that constitute "clothing" under the  
867 agreement.

868 (19) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

869 (20) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
870 fuels that does not constitute industrial use under Subsection (46) or residential use under  
871 Subsection (91).

872 (21) (a) "Common carrier" means a person engaged in or transacting the business of  
873 transporting passengers, freight, merchandise, or other property for hire within this state.

874 (b) (i) "Common carrier" does not include a person who, at the time the person is  
875 traveling to or from that person's place of employment, transports a passenger to or from the  
876 passenger's place of employment.

877 (ii) For purposes of Subsection (21)(b)(i), in accordance with Title 63G, Chapter 3,  
878 Utah Administrative Rulemaking Act, the commission may make rules defining what  
879 constitutes a person's place of employment.

880 (22) "Component part" includes:

881 (a) poultry, dairy, and other livestock feed, and their components;

882 (b) baling ties and twine used in the baling of hay and straw;

883 (c) fuel used for providing temperature control of orchards and commercial  
884 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
885 off-highway type farm machinery; and

886 (d) feed, seeds, and seedlings.

887 (23) "Computer" means an electronic device that accepts information:

888 (a) (i) in digital form; or

889 (ii) in a form similar to digital form; and

890 (b) manipulates that information for a result based on a sequence of instructions.

891 (24) "Computer software" means a set of coded instructions designed to cause:

892 (a) a computer to perform a task; or

893 (b) automatic data processing equipment to perform a task.

894 (25) (a) "Conference bridging service" means an ancillary service that links two or  
895 more participants of an audio conference call or video conference call.

896 (b) "Conference bridging service" includes providing a telephone number as part of the  
897 ancillary service described in Subsection (25)(a).

898 (c) "Conference bridging service" does not include a telecommunications service used  
899 to reach the ancillary service described in Subsection (25)(a).

900 (26) "Construction materials" means any tangible personal property that will be  
901 converted into real property.

902 (27) "Delivered electronically" means delivered to a purchaser by means other than  
903 tangible storage media.

904 (28) (a) "Delivery charge" means a charge:

905 (i) by a seller of:

906 (A) tangible personal property;

907 (B) a product transferred electronically; or

908 (C) services; and

909 (ii) for preparation and delivery of the tangible personal property, product transferred  
910 electronically, or services described in Subsection (28)(a)(i) to a location designated by the  
911 purchaser.

912 (b) "Delivery charge" includes a charge for the following:

913 (i) transportation;

914 (ii) shipping;

915 (iii) postage;

916 (iv) handling;

917 (v) crating; or

918 (vi) packing.

919 (29) "Detailed telecommunications billing service" means an ancillary service of  
920 separately stating information pertaining to individual calls on a customer's billing statement.

921 (30) "Dietary supplement" means a product, other than tobacco, that:

922 (a) is intended to supplement the diet;

923 (b) contains one or more of the following dietary ingredients:

924 (i) a vitamin;

925 (ii) a mineral;

926 (iii) an herb or other botanical;

- 927 (iv) an amino acid;
- 928 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 929 dietary intake; or
- 930 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 931 described in Subsections (30)(b)(i) through (v);
- 932 (c) (i) except as provided in Subsection (30)(c)(ii), is intended for ingestion in:
- 933 (A) tablet form;
- 934 (B) capsule form;
- 935 (C) powder form;
- 936 (D) softgel form;
- 937 (E) gelcap form; or
- 938 (F) liquid form; or
- 939 (ii) notwithstanding Subsection (30)(c)(i), if the product is not intended for ingestion in
- 940 a form described in Subsections (30)(c)(i)(A) through (F), is not represented:
- 941 (A) as conventional food; and
- 942 (B) for use as a sole item of:
- 943 (I) a meal; or
- 944 (II) the diet; and
- 945 (d) is required to be labeled as a dietary supplement:
- 946 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 947 (ii) as required by 21 C.F.R. Sec. 101.36.
- 948 (31) (a) "Direct mail" means printed material delivered or distributed by United States
- 949 mail or other delivery service:
- 950 (i) to:
- 951 (A) a mass audience; or
- 952 (B) addressees on a mailing list provided:
- 953 (I) by a purchaser of the mailing list; or
- 954 (II) at the discretion of the purchaser of the mailing list; and
- 955 (ii) if the cost of the printed material is not billed directly to the recipients.
- 956 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 957 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

958 (c) "Direct mail" does not include multiple items of printed material delivered to a  
959 single address.

960 (32) "Directory assistance" means an ancillary service of providing:

961 (a) address information; or

962 (b) telephone number information.

963 (33) (a) "Disposable home medical equipment or supplies" means medical equipment  
964 or supplies that:

965 (i) cannot withstand repeated use; and

966 (ii) are purchased by, for, or on behalf of a person other than:

967 (A) a health care facility as defined in Section 26-21-2;

968 (B) a health care provider as defined in Section 78B-3-403;

969 (C) an office of a health care provider described in Subsection (33)(a)(ii)(B); or

970 (D) a person similar to a person described in Subsections (33)(a)(ii)(A) through (C).

971 (b) "Disposable home medical equipment or supplies" does not include:

972 (i) a drug;

973 (ii) durable medical equipment;

974 (iii) a hearing aid;

975 (iv) a hearing aid accessory;

976 (v) mobility enhancing equipment; or

977 (vi) tangible personal property used to correct impaired vision, including:

978 (A) eyeglasses; or

979 (B) contact lenses.

980 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
981 commission may by rule define what constitutes medical equipment or supplies.

982 (34) (a) "Drug" means a compound, substance, or preparation, or a component of a  
983 compound, substance, or preparation that is:

984 (i) recognized in:

985 (A) the official United States Pharmacopoeia;

986 (B) the official Homeopathic Pharmacopoeia of the United States;

987 (C) the official National Formulary; or

988 (D) a supplement to a publication listed in Subsections (34)(a)(i)(A) through (C);

- 989 (ii) intended for use in the:
- 990 (A) diagnosis of disease;
- 991 (B) cure of disease;
- 992 (C) mitigation of disease;
- 993 (D) treatment of disease; or
- 994 (E) prevention of disease; or
- 995 (iii) intended to affect:
- 996 (A) the structure of the body; or
- 997 (B) any function of the body.
- 998 (b) "Drug" does not include:
- 999 (i) food and food ingredients;
- 1000 (ii) a dietary supplement;
- 1001 (iii) an alcoholic beverage; or
- 1002 (iv) a prosthetic device.
- 1003 (35) (a) Except as provided in Subsection (35)(c), "durable medical equipment" means
- 1004 equipment that:
- 1005 (i) can withstand repeated use;
- 1006 (ii) is primarily and customarily used to serve a medical purpose;
- 1007 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1008 (iv) is not worn in or on the body.
- 1009 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1010 equipment described in Subsection (35)(a).
- 1011 (c) Notwithstanding Subsection (35)(a), "durable medical equipment" does not include
- 1012 mobility enhancing equipment.
- 1013 (36) "Electronic" means:
- 1014 (a) relating to technology; and
- 1015 (b) having:
- 1016 (i) electrical capabilities;
- 1017 (ii) digital capabilities;
- 1018 (iii) magnetic capabilities;
- 1019 (iv) wireless capabilities;

- 1020 (v) optical capabilities;
- 1021 (vi) electromagnetic capabilities; or
- 1022 (vii) capabilities similar to Subsections (36)(b)(i) through (vi).
- 1023 (37) "Employee" is as defined in Section 59-10-401.
- 1024 (38) "Fixed guideway" means a public transit facility that uses and occupies:
  - 1025 (a) rail for the use of public transit; or
  - 1026 (b) a separate right-of-way for the use of public transit.
- 1027 (39) "Fixed wireless service" means a telecommunications service that provides radio
- 1028 communication between fixed points.
- 1029 (40) (a) "Food and food ingredients" means substances:
  - 1030 (i) regardless of whether the substances are in:
    - 1031 (A) liquid form;
    - 1032 (B) concentrated form;
    - 1033 (C) solid form;
    - 1034 (D) frozen form;
    - 1035 (E) dried form; or
    - 1036 (F) dehydrated form; and
  - 1037 (ii) that are:
    - 1038 (A) sold for:
      - 1039 (I) ingestion by humans; or
      - 1040 (II) chewing by humans; and
    - 1041 (B) consumed for the substance's:
      - 1042 (I) taste; or
      - 1043 (II) nutritional value.
- 1044 (b) "Food and food ingredients" includes an item described in Subsection (75)(b)(iii).
- 1045 (c) "Food and food ingredients" does not include:
  - 1046 (i) an alcoholic beverage;
  - 1047 (ii) tobacco; or
  - 1048 (iii) prepared food.
- 1049 (41) (a) "Fundraising sales" means sales:
  - 1050 (i) (A) made by a school; or

- 1051 (B) made by a school student;
- 1052 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1053 materials, or provide transportation; and
- 1054 (iii) that are part of an officially sanctioned school activity.
- 1055 (b) For purposes of Subsection (41)(a)(iii), "officially sanctioned school activity"
- 1056 means a school activity:
- 1057 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1058 district governing the authorization and supervision of fundraising activities;
- 1059 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1060 educational personnel by direct payment, commissions, or payment in kind; and
- 1061 (iii) the net or gross revenues from which are deposited in a dedicated account
- 1062 controlled by the school or school district.
- 1063 (42) "Geothermal energy" means energy contained in heat that continuously flows
- 1064 outward from the earth that is used as the sole source of energy to produce electricity.
- 1065 (43) "Governing board of the agreement" means the governing board of the agreement
- 1066 that is:
- 1067 (a) authorized to administer the agreement; and
- 1068 (b) established in accordance with the agreement.
- 1069 (44) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 1070 (i) the executive branch of the state, including all departments, institutions, boards,
- 1071 divisions, bureaus, offices, commissions, and committees;
- 1072 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 1073 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 1074 (iii) the legislative branch of the state, including the House of Representatives, the
- 1075 Senate, the Legislative Printing Office, the Office of Legislative Research and General
- 1076 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
- 1077 Analyst;
- 1078 (iv) the National Guard;
- 1079 (v) an independent entity as defined in Section 63E-1-102; or
- 1080 (vi) a political subdivision as defined in Section 17B-1-102.
- 1081 (b) "Governmental entity" does not include the state systems of public and higher

1082 education, including:

1083 (i) a college campus of the Utah College of Applied Technology;

1084 (ii) a school;

1085 (iii) the State Board of Education;

1086 (iv) the State Board of Regents; or

1087 (v) a state institution of higher education as defined in Section 53B-3-102.

1088 (45) "Hydroelectric energy" means water used as the sole source of energy to produce  
1089 electricity.

1090 (46) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
1091 other fuels:

1092 (a) in mining or extraction of minerals;

1093 (b) in agricultural operations to produce an agricultural product up to the time of  
1094 harvest or placing the agricultural product into a storage facility, including:

1095 (i) commercial greenhouses;

1096 (ii) irrigation pumps;

1097 (iii) farm machinery;

1098 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not  
1099 registered under Title 41, Chapter 1a, Part 2, Registration; and

1100 (v) other farming activities;

1101 (c) in manufacturing tangible personal property at an establishment described in SIC  
1102 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal  
1103 Executive Office of the President, Office of Management and Budget;

1104 (d) by a scrap recycler if:

1105 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
1106 one or more of the following items into prepared grades of processed materials for use in new  
1107 products:

1108 (A) iron;

1109 (B) steel;

1110 (C) nonferrous metal;

1111 (D) paper;

1112 (E) glass;

- 1113 (F) plastic;
- 1114 (G) textile; or
- 1115 (H) rubber; and
- 1116 (ii) the new products under Subsection (46)(d)(i) would otherwise be made with
- 1117 nonrecycled materials; or
- 1118 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 1119 cogeneration facility as defined in Section 54-2-1.
- 1120 (47) (a) Except as provided in Subsection (47)(b), "installation charge" means a charge
- 1121 for installing:
  - 1122 (i) tangible personal property; or
  - 1123 (ii) a product transferred electronically.
- 1124 (b) "Installation charge" does not include a charge for repairs or renovations of:
  - 1125 (i) tangible personal property; or
  - 1126 (ii) a product transferred electronically.
- 1127 (48) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 1128 personal property or a product transferred electronically for:
  - 1129 (i) (A) a fixed term; or
  - 1130 (B) an indeterminate term; and
  - 1131 (ii) consideration.
- 1132 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 1133 amount of consideration may be increased or decreased by reference to the amount realized
- 1134 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 1135 Code.
- 1136 (c) "Lease" or "rental" does not include:
  - 1137 (i) a transfer of possession or control of property under a security agreement or
  - 1138 deferred payment plan that requires the transfer of title upon completion of the required
  - 1139 payments;
  - 1140 (ii) a transfer of possession or control of property under an agreement that requires the
  - 1141 transfer of title:
    - 1142 (A) upon completion of required payments; and
    - 1143 (B) if the payment of an option price does not exceed the greater of:

- 1144 (I) \$100; or
- 1145 (II) 1% of the total required payments; or
- 1146 (iii) providing tangible personal property along with an operator for a fixed period of
- 1147 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 1148 designed.
- 1149 (d) For purposes of Subsection (48)(c)(iii), an operator is necessary for equipment to
- 1150 perform as designed if the operator's duties exceed the:
  - 1151 (i) set-up of tangible personal property;
  - 1152 (ii) maintenance of tangible personal property; or
  - 1153 (iii) inspection of tangible personal property.
- 1154 (49) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 1155 if the tangible storage media is not physically transferred to the purchaser.
- 1156 (50) "Local taxing jurisdiction" means a:
  - 1157 (a) county that is authorized to impose an agreement sales and use tax;
  - 1158 (b) city that is authorized to impose an agreement sales and use tax; or
  - 1159 (c) town that is authorized to impose an agreement sales and use tax.
- 1160 (51) "Manufactured home" is as defined in Section 58-56-3.
- 1161 (52) For purposes of Section 59-12-104, "manufacturing facility" means:
  - 1162 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
  - 1163 Industrial Classification Manual of the federal Executive Office of the President, Office of
  - 1164 Management and Budget;
  - 1165 (b) a scrap recycler if:
    - 1166 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
    - 1167 one or more of the following items into prepared grades of processed materials for use in new
    - 1168 products:
      - 1169 (A) iron;
      - 1170 (B) steel;
      - 1171 (C) nonferrous metal;
      - 1172 (D) paper;
      - 1173 (E) glass;
      - 1174 (F) plastic;

- 1175 (G) textile; or
- 1176 (H) rubber; and
- 1177 (ii) the new products under Subsection (52)(b)(i) would otherwise be made with
- 1178 nonrecycled materials; or
- 1179 (c) a cogeneration facility as defined in Section 54-2-1.
- 1180 (53) "Member of the immediate family of the producer" means a person who is related
- 1181 to a producer described in Subsection 59-12-104(20)(a) as a:
- 1182 (a) child or stepchild, regardless of whether the child or stepchild is:
- 1183 (i) an adopted child or adopted stepchild; or
- 1184 (ii) a foster child or foster stepchild;
- 1185 (b) grandchild or stepgrandchild;
- 1186 (c) grandparent or stepgrandparent;
- 1187 (d) nephew or stepnephew;
- 1188 (e) niece or stepniece;
- 1189 (f) parent or stepparent;
- 1190 (g) sibling or stepsibling;
- 1191 (h) spouse;
- 1192 (i) person who is the spouse of a person described in Subsections (53)(a) through (g);
- 1193 or
- 1194 (j) person similar to a person described in Subsections (53)(a) through (i) as
- 1195 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1196 Administrative Rulemaking Act.
- 1197 (54) "Mobile home" is as defined in Section 58-56-3.
- 1198 (55) "Mobile telecommunications service" is as defined in the Mobile
- 1199 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1200 (56) (a) "Mobile wireless service" means a telecommunications service, regardless of
- 1201 the technology used, if:
- 1202 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 1203 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 1204 (iii) the origination point described in Subsection (56)(a)(i) and the termination point
- 1205 described in Subsection (56)(a)(ii) are not fixed.

1206 (b) "Mobile wireless service" includes a telecommunications service that is provided  
1207 by a commercial mobile radio service provider.

1208 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1209 commission may by rule define "commercial mobile radio service provider."

1210 (57) (a) Except as provided in Subsection (57)(c), "mobility enhancing equipment"  
1211 means equipment that is:

1212 (i) primarily and customarily used to provide or increase the ability to move from one  
1213 place to another;

1214 (ii) appropriate for use in a:

1215 (A) home; or

1216 (B) motor vehicle; and

1217 (iii) not generally used by persons with normal mobility.

1218 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
1219 the equipment described in Subsection (57)(a).

1220 (c) Notwithstanding Subsection (57)(a), "mobility enhancing equipment" does not  
1221 include:

1222 (i) a motor vehicle;

1223 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
1224 vehicle manufacturer;

1225 (iii) durable medical equipment; or

1226 (iv) a prosthetic device.

1227 (58) "Model 1 seller" means a seller that has selected a certified service provider as the  
1228 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and  
1229 use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's  
1230 own purchases.

1231 (59) "Model 2 seller" means a seller that:

1232 (a) except as provided in Subsection (59)(b), has selected a certified automated system  
1233 to perform the seller's sales tax functions for agreement sales and use taxes; and

1234 (b) notwithstanding Subsection (59)(a), retains responsibility for remitting all of the  
1235 sales tax:

1236 (i) collected by the seller; and

- 1237 (ii) to the appropriate local taxing jurisdiction.
- 1238 (60) (a) Subject to Subsection (60)(b), "model 3 seller" means a seller that has:
- 1239 (i) sales in at least five states that are members of the agreement;
- 1240 (ii) total annual sales revenues of at least \$500,000,000;
- 1241 (iii) a proprietary system that calculates the amount of tax:
- 1242 (A) for an agreement sales and use tax; and
- 1243 (B) due to each local taxing jurisdiction; and
- 1244 (iv) entered into a performance agreement with the governing board of the agreement.
- 1245 (b) For purposes of Subsection (60)(a), "model 3 seller" includes an affiliated group of
- 1246 sellers using the same proprietary system.
- 1247 (61) "Modular home" means a modular unit as defined in Section 58-56-3.
- 1248 (62) "Motor vehicle" is as defined in Section 41-1a-102.
- 1249 (63) "Oil shale" means a group of fine black to dark brown shales containing
- 1250 bituminous material that yields petroleum upon distillation.
- 1251 (64) (a) "Other fuels" means products that burn independently to produce heat or
- 1252 energy.
- 1253 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 1254 personal property.
- 1255 (65) (a) "Paging service" means a telecommunications service that provides
- 1256 transmission of a coded radio signal for the purpose of activating a specific pager.
- 1257 (b) For purposes of Subsection (65)(a), the transmission of a coded radio signal
- 1258 includes a transmission by message or sound.
- 1259 (66) "Pawnbroker" is as defined in Section 13-32a-102.
- 1260 (67) "Pawn transaction" is as defined in Section 13-32a-102.
- 1261 (68) (a) "Permanently attached to real property" means that for tangible personal
- 1262 property attached to real property:
- 1263 (i) the attachment of the tangible personal property to the real property:
- 1264 (A) is essential to the use of the tangible personal property; and
- 1265 (B) suggests that the tangible personal property will remain attached to the real
- 1266 property in the same place over the useful life of the tangible personal property; or
- 1267 (ii) if the tangible personal property is detached from the real property, the detachment

1268 would:

1269 (A) cause substantial damage to the tangible personal property; or

1270 (B) require substantial alteration or repair of the real property to which the tangible  
1271 personal property is attached.

1272 (b) "Permanently attached to real property" includes:

1273 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1274 (A) essential to the operation of the tangible personal property; and

1275 (B) attached only to facilitate the operation of the tangible personal property;

1276 (ii) a temporary detachment of tangible personal property from real property for a  
1277 repair or renovation if the repair or renovation is performed where the tangible personal

1278 property and real property are located; or

1279 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
1280 Subsection (68)(c)(iii) or (iv).

1281 (c) "Permanently attached to real property" does not include:

1282 (i) the attachment of portable or movable tangible personal property to real property if  
1283 that portable or movable tangible personal property is attached to real property only for:

1284 (A) convenience;

1285 (B) stability; or

1286 (C) for an obvious temporary purpose;

1287 (ii) the detachment of tangible personal property from real property except for the  
1288 detachment described in Subsection (68)(b)(ii);

1289 (iii) an attachment of the following tangible personal property to real property if the  
1290 attachment to real property is only through a line that supplies water, electricity, gas,  
1291 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
1292 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1293 (A) a computer;

1294 (B) a telephone;

1295 (C) a television; or

1296 (D) tangible personal property similar to Subsections (68)(c)(iii)(A) through (C) as  
1297 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
1298 Administrative Rulemaking Act; or

1299 (iv) an item listed in Subsection (108)(c).

1300 (69) "Person" includes any individual, firm, partnership, joint venture, association,  
1301 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
1302 municipality, district, or other local governmental entity of the state, or any group or  
1303 combination acting as a unit.

1304 (70) "Place of primary use":

1305 (a) for telecommunications service other than mobile telecommunications service,  
1306 means the street address representative of where the customer's use of the telecommunications  
1307 service primarily occurs, which shall be:

1308 (i) the residential street address of the customer; or

1309 (ii) the primary business street address of the customer; or

1310 (b) for mobile telecommunications service, is as defined in the Mobile  
1311 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1312 (71) (a) "Postpaid calling service" means a telecommunications service a person  
1313 obtains by making a payment on a call-by-call basis:

1314 (i) through the use of a:

1315 (A) bank card;

1316 (B) credit card;

1317 (C) debit card; or

1318 (D) travel card; or

1319 (ii) by a charge made to a telephone number that is not associated with the origination  
1320 or termination of the telecommunications service.

1321 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
1322 service, that would be a prepaid wireless calling service if the service were exclusively a  
1323 telecommunications service.

1324 (72) "Postproduction" means an activity related to the finishing or duplication of a  
1325 medium described in Subsection 59-12-104(54)(a).

1326 (73) "Prepaid calling service" means a telecommunications service:

1327 (a) that allows a purchaser access to telecommunications service that is exclusively  
1328 telecommunications service;

1329 (b) that:

- 1330 (i) is paid for in advance; and
- 1331 (ii) enables the origination of a call using an:
  - 1332 (A) access number; or
  - 1333 (B) authorization code;
  - 1334 (c) that is dialed:
    - 1335 (i) manually; or
    - 1336 (ii) electronically; and
  - 1337 (d) sold in predetermined units or dollars that decline:
    - 1338 (i) by a known amount; and
    - 1339 (ii) with use.
- 1340 (74) "Prepaid wireless calling service" means a telecommunications service:
  - 1341 (a) that provides the right to utilize:
    - 1342 (i) mobile wireless service; and
    - 1343 (ii) other service that is not a telecommunications service, including:
      - 1344 (A) the download of a product transferred electronically;
      - 1345 (B) a content service; or
      - 1346 (C) an ancillary service;
    - 1347 (b) that:
      - 1348 (i) is paid for in advance; and
      - 1349 (ii) enables the origination of a call using an:
        - 1350 (A) access number; or
        - 1351 (B) authorization code;
        - 1352 (c) that is dialed:
          - 1353 (i) manually; or
          - 1354 (ii) electronically; and
        - 1355 (d) sold in predetermined units or dollars that decline:
          - 1356 (i) by a known amount; and
          - 1357 (ii) with use.
  - 1358 (75) (a) "Prepared food" means:
    - 1359 (i) food:
      - 1360 (A) sold in a heated state; or

1361 (B) heated by a seller;  
1362 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
1363 item; or  
1364 (iii) except as provided in Subsection (75)(c), food sold with an eating utensil provided  
1365 by the seller, including a:  
1366 (A) plate;  
1367 (B) knife;  
1368 (C) fork;  
1369 (D) spoon;  
1370 (E) glass;  
1371 (F) cup;  
1372 (G) napkin; or  
1373 (H) straw.  
1374 (b) "Prepared food" does not include:  
1375 (i) food that a seller only:  
1376 (A) cuts;  
1377 (B) repackages; or  
1378 (C) pasteurizes; or  
1379 (ii) (A) the following:  
1380 (I) raw egg;  
1381 (II) raw fish;  
1382 (III) raw meat;  
1383 (IV) raw poultry; or  
1384 (V) a food containing an item described in Subsections (75)(b)(ii)(A)(I) through (IV);  
1385 and  
1386 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
1387 Food and Drug Administration's Food Code that a consumer cook the items described in  
1388 Subsection (75)(b)(ii)(A) to prevent food borne illness; or  
1389 (iii) the following if sold without eating utensils provided by the seller:  
1390 (A) food and food ingredients sold by a seller if the seller's proper primary  
1391 classification under the 2002 North American Industry Classification System of the federal

1392 Executive Office of the President, Office of Management and Budget, is manufacturing in  
1393 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla  
1394 Manufacturing;

1395 (B) food and food ingredients sold in an unheated state:

1396 (I) by weight or volume; and

1397 (II) as a single item; or

1398 (C) a bakery item, including:

1399 (I) a bagel;

1400 (II) a bar;

1401 (III) a biscuit;

1402 (IV) bread;

1403 (V) a bun;

1404 (VI) a cake;

1405 (VII) a cookie;

1406 (VIII) a croissant;

1407 (IX) a danish;

1408 (X) a donut;

1409 (XI) a muffin;

1410 (XII) a pastry;

1411 (XIII) a pie;

1412 (XIV) a roll;

1413 (XV) a tart;

1414 (XVI) a torte; or

1415 (XVII) a tortilla.

1416 (c) Notwithstanding Subsection (75)(a)(iii), an eating utensil provided by the seller  
1417 does not include the following used to transport the food:

1418 (i) a container; or

1419 (ii) packaging.

1420 (76) "Prescription" means an order, formula, or recipe that is issued:

1421 (a) (i) orally;

1422 (ii) in writing;

- 1423 (iii) electronically; or
- 1424 (iv) by any other manner of transmission; and
- 1425 (b) by a licensed practitioner authorized by the laws of a state.
- 1426 (77) (a) Except as provided in Subsection (77)(b)(ii) or (iii), "prewritten computer
- 1427 software" means computer software that is not designed and developed:
- 1428 (i) by the author or other creator of the computer software; and
- 1429 (ii) to the specifications of a specific purchaser.
- 1430 (b) "Prewritten computer software" includes:
- 1431 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 1432 software is not designed and developed:
- 1433 (A) by the author or other creator of the computer software; and
- 1434 (B) to the specifications of a specific purchaser;
- 1435 (ii) notwithstanding Subsection (77)(a), computer software designed and developed by
- 1436 the author or other creator of the computer software to the specifications of a specific purchaser
- 1437 if the computer software is sold to a person other than the purchaser; or
- 1438 (iii) notwithstanding Subsection (77)(a) and except as provided in Subsection (77)(c),
- 1439 prewritten computer software or a prewritten portion of prewritten computer software:
- 1440 (A) that is modified or enhanced to any degree; and
- 1441 (B) if the modification or enhancement described in Subsection (77)(b)(iii)(A) is
- 1442 designed and developed to the specifications of a specific purchaser.
- 1443 (c) Notwithstanding Subsection (77)(b)(iii), "prewritten computer software" does not
- 1444 include a modification or enhancement described in Subsection (77)(b)(iii) if the charges for
- 1445 the modification or enhancement are:
- 1446 (i) reasonable; and
- 1447 (ii) separately stated on the invoice or other statement of price provided to the
- 1448 purchaser.
- 1449 (78) (a) "Private communication service" means a telecommunications service:
- 1450 (i) that entitles a customer to exclusive or priority use of one or more communications
- 1451 channels between or among termination points; and
- 1452 (ii) regardless of the manner in which the one or more communications channels are
- 1453 connected.

1454 (b) "Private communications service" includes the following provided in connection  
1455 with the use of one or more communications channels:

1456 (i) an extension line;

1457 (ii) a station;

1458 (iii) switching capacity; or

1459 (iv) another associated service that is provided in connection with the use of one or  
1460 more communications channels as defined in Section 59-12-215.

1461 (79) (a) "Prosthetic device" means a device that is worn on or in the body to:

1462 (i) artificially replace a missing portion of the body;

1463 (ii) prevent or correct a physical deformity or physical malfunction; or

1464 (iii) support a weak or deformed portion of the body.

1465 (b) "Prosthetic device" includes:

1466 (i) parts used in the repairs or renovation of a prosthetic device;

1467 (ii) replacement parts for a prosthetic device;

1468 (iii) a dental prosthesis; or

1469 (iv) a hearing aid.

1470 (c) "Prosthetic device" does not include:

1471 (i) corrective eyeglasses; or

1472 (ii) contact lenses.

1473 (80) (a) "Protective equipment" means an item:

1474 (i) for human wear; and

1475 (ii) that is:

1476 (A) designed as protection:

1477 (I) to the wearer against injury or disease; or

1478 (II) against damage or injury of other persons or property; and

1479 (B) not suitable for general use.

1480 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1481 commission shall make rules:

1482 (i) listing the items that constitute "protective equipment"; and

1483 (ii) that are consistent with the list of items that constitute "protective equipment"

1484 under the agreement.

1485 (81) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or  
1486 printed matter, other than a photocopy:

1487 (i) regardless of:

1488 (A) characteristics;

1489 (B) copyright;

1490 (C) form;

1491 (D) format;

1492 (E) method of reproduction; or

1493 (F) source; and

1494 (ii) made available in printed or electronic format.

1495 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1496 commission may by rule define the term "photocopy."

1497 (82) (a) "Purchase price" and "sales price" mean the total amount of consideration:

1498 (i) valued in money; and

1499 (ii) for which tangible personal property, a product transferred electronically, or  
1500 services are:

1501 (A) sold;

1502 (B) leased; or

1503 (C) rented.

1504 (b) "Purchase price" and "sales price" include:

1505 (i) the seller's cost of the tangible personal property, a product transferred  
1506 electronically, or services sold;

1507 (ii) expenses of the seller, including:

1508 (A) the cost of materials used;

1509 (B) a labor cost;

1510 (C) a service cost;

1511 (D) interest;

1512 (E) a loss;

1513 (F) the cost of transportation to the seller; or

1514 (G) a tax imposed on the seller;

1515 (iii) a charge by the seller for any service necessary to complete the sale; or

- 1516 (iv) consideration a seller receives from a person other than the purchaser if:
- 1517 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1518 and
- 1519 (II) the consideration described in Subsection (82)(b)(iv)(A)(I) is directly related to a
- 1520 price reduction or discount on the sale;
- 1521 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1522 purchaser;
- 1523 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1524 the seller at the time of the sale to the purchaser; and
- 1525 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1526 seller to claim a price reduction or discount; and
- 1527 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1528 coupon, or other documentation with the understanding that the person other than the seller
- 1529 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1530 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1531 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1532 available to any patron of a seller does not constitute membership in a group or organization
- 1533 allowed a price reduction or discount; or
- 1534 (III) the price reduction or discount is identified as a third party price reduction or
- 1535 discount on the:
- 1536 (Aa) invoice the purchaser receives; or
- 1537 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1538 (c) "Purchase price" and "sales price" do not include:
- 1539 (i) a discount:
- 1540 (A) in a form including:
- 1541 (I) cash;
- 1542 (II) term; or
- 1543 (III) coupon;
- 1544 (B) that is allowed by a seller;
- 1545 (C) taken by a purchaser on a sale; and
- 1546 (D) that is not reimbursed by a third party; or

1547 (ii) the following if separately stated on an invoice, bill of sale, or similar document  
1548 provided to the purchaser:

1549 (A) the following from credit extended on the sale of tangible personal property or  
1550 services:

1551 (I) a carrying charge;

1552 (II) a financing charge; or

1553 (III) an interest charge;

1554 (B) a delivery charge;

1555 (C) an installation charge;

1556 (D) a manufacturer rebate on a motor vehicle; or

1557 (E) a tax or fee legally imposed directly on the consumer.

1558 (83) "Purchaser" means a person to whom:

1559 (a) a sale of tangible personal property is made;

1560 (b) a product is transferred electronically; or

1561 (c) a service is furnished.

1562 (84) "Regularly rented" means:

1563 (a) rented to a guest for value three or more times during a calendar year; or

1564 (b) advertised or held out to the public as a place that is regularly rented to guests for  
1565 value.

1566 (85) "Renewable energy" means:

1567 (a) biomass energy;

1568 (b) hydroelectric energy;

1569 (c) geothermal energy;

1570 (d) solar energy; or

1571 (e) wind energy.

1572 (86) (a) "Renewable energy production facility" means a facility that:

1573 (i) uses renewable energy to produce electricity; and

1574 (ii) has a production capacity of 20 kilowatts or greater.

1575 (b) A facility is a renewable energy production facility regardless of whether the  
1576 facility is:

1577 (i) connected to an electric grid; or

1578 (ii) located on the premises of an electricity consumer.  
1579 (87) "Rental" is as defined in Subsection (48).  
1580 (88) "Repairs or renovations of tangible personal property" means:  
1581 (a) a repair or renovation of tangible personal property that is not permanently attached  
1582 to real property; or  
1583 (b) attaching tangible personal property or a product that is transferred electronically to  
1584 other tangible personal property if the other tangible personal property to which the tangible  
1585 personal property or product that is transferred electronically is attached is not permanently  
1586 attached to real property.  
1587 (89) "Research and development" means the process of inquiry or experimentation  
1588 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1589 preparing those devices, technologies, or applications for marketing.  
1590 (90) (a) "Residential telecommunications services" means a telecommunications  
1591 service or an ancillary service that is provided to an individual for personal use:  
1592 (i) at a residential address; or  
1593 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1594 service or ancillary service is provided to and paid for by the individual residing at the  
1595 institution rather than the institution.  
1596 (b) For purposes of Subsection (90)(a), a residential address includes an:  
1597 (i) apartment; or  
1598 (ii) other individual dwelling unit.  
1599 (91) "Residential use" means the use in or around a home, apartment building, sleeping  
1600 quarters, and similar facilities or accommodations.  
1601 (92) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1602 than:  
1603 (a) resale;  
1604 (b) sublease; or  
1605 (c) subrent.  
1606 (93) (a) "Retailer" means any person engaged in a regularly organized business in  
1607 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
1608 who is selling to the user or consumer and not for resale.

1609 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1610 engaged in the business of selling to users or consumers within the state.

1611 (94) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1612 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1613 Subsection 59-12-103(1), for consideration.

1614 (b) "Sale" includes:

1615 (i) installment and credit sales;

1616 (ii) any closed transaction constituting a sale;

1617 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1618 chapter;

1619 (iv) any transaction if the possession of property is transferred but the seller retains the  
1620 title as security for the payment of the price; and

1621 (v) any transaction under which right to possession, operation, or use of any article of  
1622 tangible personal property is granted under a lease or contract and the transfer of possession  
1623 would be taxable if an outright sale were made.

1624 (95) "Sale at retail" is as defined in Subsection (92).

1625 (96) "Sale-leaseback transaction" means a transaction by which title to tangible  
1626 personal property or a product transferred electronically that is subject to a tax under this  
1627 chapter is transferred:

1628 (a) by a purchaser-lessee;

1629 (b) to a lessor;

1630 (c) for consideration; and

1631 (d) if:

1632 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1633 of the tangible personal property or product transferred electronically;

1634 (ii) the sale of the tangible personal property or product transferred electronically to the  
1635 lessor is intended as a form of financing:

1636 (A) for the tangible personal property or product transferred electronically; and

1637 (B) to the purchaser-lessee; and

1638 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1639 is required to:

- 1640 (A) capitalize the tangible personal property or product transferred electronically for
- 1641 financial reporting purposes; and
- 1642 (B) account for the lease payments as payments made under a financing arrangement.
- 1643 (97) "Sales price" is as defined in Subsection (82).
- 1644 (98) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1645 amounts charged by a school:
- 1646 (i) sales that are directly related to the school's educational functions or activities
- 1647 including:
- 1648 (A) the sale of:
- 1649 (I) textbooks;
- 1650 (II) textbook fees;
- 1651 (III) laboratory fees;
- 1652 (IV) laboratory supplies; or
- 1653 (V) safety equipment;
- 1654 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1655 that:
- 1656 (I) a student is specifically required to wear as a condition of participation in a
- 1657 school-related event or school-related activity; and
- 1658 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1659 place of ordinary clothing;
- 1660 (C) sales of the following if the net or gross revenues generated by the sales are
- 1661 deposited into a school district fund or school fund dedicated to school meals:
- 1662 (I) food and food ingredients; or
- 1663 (II) prepared food; or
- 1664 (D) transportation charges for official school activities; or
- 1665 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1666 event or school-related activity.
- 1667 (b) "Sales relating to schools" does not include:
- 1668 (i) bookstore sales of items that are not educational materials or supplies;
- 1669 (ii) except as provided in Subsection (98)(a)(i)(B):
- 1670 (A) clothing;

- 1671 (B) clothing accessories or equipment;
- 1672 (C) protective equipment; or
- 1673 (D) sports or recreational equipment; or
- 1674 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1675 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1676 (A) other than a:
- 1677 (I) school;
- 1678 (II) nonprofit organization authorized by a school board or a governing body of a
- 1679 private school to organize and direct a competitive secondary school activity; or
- 1680 (III) nonprofit association authorized by a school board or a governing body of a
- 1681 private school to organize and direct a competitive secondary school activity; and
- 1682 (B) that is required to collect sales and use taxes under this chapter.
- 1683 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1684 commission may make rules defining the term "passed through."
- 1685 (99) For purposes of this section and Section 59-12-104, "school":
- 1686 (a) means:
- 1687 (i) an elementary school or a secondary school that:
- 1688 (A) is a:
- 1689 (I) public school; or
- 1690 (II) private school; and
- 1691 (B) provides instruction for one or more grades kindergarten through 12; or
- 1692 (ii) a public school district; and
- 1693 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1694 (100) "Seller" means a person that makes a sale, lease, or rental of:
- 1695 (a) tangible personal property;
- 1696 (b) a product transferred electronically; or
- 1697 (c) a service.
- 1698 (101) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1699 means tangible personal property or a product transferred electronically if the tangible personal
- 1700 property or product transferred electronically is:
- 1701 (i) used primarily in the process of:

- 1702 (A) (I) manufacturing a semiconductor;
- 1703 (II) fabricating a semiconductor; or
- 1704 (III) research or development of a:
- 1705 (Aa) semiconductor; or
- 1706 (Bb) semiconductor manufacturing process; or
- 1707 (B) maintaining an environment suitable for a semiconductor; or
- 1708 (ii) consumed primarily in the process of:
- 1709 (A) (I) manufacturing a semiconductor;
- 1710 (II) fabricating a semiconductor; or
- 1711 (III) research or development of a:
- 1712 (Aa) semiconductor; or
- 1713 (Bb) semiconductor manufacturing process; or
- 1714 (B) maintaining an environment suitable for a semiconductor.
- 1715 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1716 includes:
- 1717 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1718 transferred electronically described in Subsection (101)(a); or
- 1719 (ii) a chemical, catalyst, or other material used to:
- 1720 (A) produce or induce in a semiconductor a:
- 1721 (I) chemical change; or
- 1722 (II) physical change;
- 1723 (B) remove impurities from a semiconductor; or
- 1724 (C) improve the marketable condition of a semiconductor.
- 1725 (102) "Senior citizen center" means a facility having the primary purpose of providing
- 1726 services to the aged as defined in Section 62A-3-101.
- 1727 (103) "Simplified electronic return" means the electronic return:
- 1728 (a) described in Section 318(C) of the agreement; and
- 1729 (b) approved by the governing board of the agreement.
- 1730 (104) "Solar energy" means the sun used as the sole source of energy for producing
- 1731 electricity.
- 1732 (105) (a) "Sports or recreational equipment" means an item:

- 1733 (i) designed for human use; and
- 1734 (ii) that is:
  - 1735 (A) worn in conjunction with:
    - 1736 (I) an athletic activity; or
    - 1737 (II) a recreational activity; and
  - 1738 (B) not suitable for general use.
- 1739 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1740 commission shall make rules:
  - 1741 (i) listing the items that constitute "sports or recreational equipment"; and
  - 1742 (ii) that are consistent with the list of items that constitute "sports or recreational
  - 1743 equipment" under the agreement.
- 1744 (106) "State" means the state of Utah, its departments, and agencies.
- 1745 (107) "Storage" means any keeping or retention of tangible personal property or any
- 1746 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 1747 sale in the regular course of business.
- 1748 (108) (a) Except as provided in Subsection (108) (d) or (e), "tangible personal
- 1749 property" means personal property that:
  - 1750 (i) may be:
    - 1751 (A) seen;
    - 1752 (B) weighed;
    - 1753 (C) measured;
    - 1754 (D) felt; or
    - 1755 (E) touched; or
  - 1756 (ii) is in any manner perceptible to the senses.
- 1757 (b) "Tangible personal property" includes:
  - 1758 (i) electricity;
  - 1759 (ii) water;
  - 1760 (iii) gas;
  - 1761 (iv) steam; or
  - 1762 (v) prewritten computer software.
- 1763 (c) "Tangible personal property" includes the following regardless of whether the item

1764 is attached to real property:

1765 (i) a dishwasher;

1766 (ii) a dryer;

1767 (iii) a freezer;

1768 (iv) a microwave;

1769 (v) a refrigerator;

1770 (vi) a stove;

1771 (vii) a washer; or

1772 (viii) an item similar to Subsections (108)(c)(i) through (vii) as determined by the  
1773 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1774 Rulemaking Act.

1775 (d) "Tangible personal property" does not include a product that is transferred  
1776 electronically.

1777 (e) "Tangible personal property" does not include the following if attached to real  
1778 property, regardless of whether the attachment to real property is only through a line that  
1779 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1780 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1781 Rulemaking Act:

1782 (i) a hot water heater;

1783 (ii) a water filtration system; or

1784 (iii) a water softener system.

1785 (109) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon  
1786 and require further processing other than mechanical blending before becoming finished  
1787 petroleum products.

1788 (110) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1789 software" means an item listed in Subsection (110)(b) if that item is purchased or leased  
1790 primarily to enable or facilitate one or more of the following to function:

1791 (i) telecommunications switching or routing equipment, machinery, or software; or

1792 (ii) telecommunications transmission equipment, machinery, or software.

1793 (b) The following apply to Subsection (110)(a):

1794 (i) a pole;

- 1795 (ii) software;
- 1796 (iii) a supplementary power supply;
- 1797 (iv) temperature or environmental equipment or machinery;
- 1798 (v) test equipment;
- 1799 (vi) a tower; or
- 1800 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 1801 Subsections (110)(b)(i) through (vi) as determined by the commission by rule made in
- 1802 accordance with Subsection (110)(c).

1803 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1804 commission may by rule define what constitutes equipment, machinery, or software that

1805 functions similarly to an item listed in Subsections (110)(b)(i) through (vi).

1806 (111) "Telecommunications equipment, machinery, or software required for 911

1807 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1808 Sec. 20.18.

1809 (112) "Telecommunications maintenance or repair equipment, machinery, or software"

1810 means equipment, machinery, or software purchased or leased primarily to maintain or repair

1811 one or more of the following, regardless of whether the equipment, machinery, or software is

1812 purchased or leased as a spare part or as an upgrade or modification to one or more of the

1813 following:

- 1814 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1815 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1816 (c) telecommunications transmission equipment, machinery, or software.

1817 (113) (a) "Telecommunications service" means the electronic conveyance, routing, or

1818 transmission of audio, data, video, voice, or any other information or signal to a point, or

1819 among or between points.

1820 (b) "Telecommunications service" includes:

1821 (i) an electronic conveyance, routing, or transmission with respect to which a computer

1822 processing application is used to act:

- 1823 (A) on the code, form, or protocol of the content;
- 1824 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1825 (C) regardless of whether the service:

- 1826 (I) is referred to as voice over Internet protocol service; or
- 1827 (II) is classified by the Federal Communications Commission as enhanced or value
- 1828 added;
- 1829 (ii) an 800 service;
- 1830 (iii) a 900 service;
- 1831 (iv) a fixed wireless service;
- 1832 (v) a mobile wireless service;
- 1833 (vi) a postpaid calling service;
- 1834 (vii) a prepaid calling service;
- 1835 (viii) a prepaid wireless calling service; or
- 1836 (ix) a private communications service.
- 1837 (c) "Telecommunications service" does not include:
- 1838 (i) advertising, including directory advertising;
- 1839 (ii) an ancillary service;
- 1840 (iii) a billing and collection service provided to a third party;
- 1841 (iv) a data processing and information service if:
- 1842 (A) the data processing and information service allows data to be:
- 1843 (I) (Aa) acquired;
- 1844 (Bb) generated;
- 1845 (Cc) processed;
- 1846 (Dd) retrieved; or
- 1847 (Ee) stored; and
- 1848 (II) delivered by an electronic transmission to a purchaser; and
- 1849 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1850 or information;
- 1851 (v) installation or maintenance of the following on a customer's premises:
- 1852 (A) equipment; or
- 1853 (B) wiring;
- 1854 (vi) Internet access service;
- 1855 (vii) a paging service;
- 1856 (viii) a product transferred electronically, including:

- 1857 (A) music;
- 1858 (B) reading material;
- 1859 (C) a ring tone;
- 1860 (D) software; or
- 1861 (E) video;
- 1862 (ix) a radio and television audio and video programming service:
- 1863 (A) regardless of the medium; and
- 1864 (B) including:
  - 1865 (I) furnishing conveyance, routing, or transmission of a television audio and video
  - 1866 programming service by a programming service provider;
  - 1867 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
  - 1868 (III) audio and video programming services delivered by a commercial mobile radio
  - 1869 service provider as defined in 47 C.F.R. Sec. 20.3;
  - 1870 (x) a value-added nonvoice data service; or
  - 1871 (xi) tangible personal property.
- 1872 (114) (a) "Telecommunications service provider" means a person that:
  - 1873 (i) owns, controls, operates, or manages a telecommunications service; and
  - 1874 (ii) engages in an activity described in Subsection (114)(a)(i) for the shared use with or
  - 1875 resale to any person of the telecommunications service.
- 1876 (b) A person described in Subsection (114)(a) is a telecommunications service provider
- 1877 whether or not the Public Service Commission of Utah regulates:
  - 1878 (i) that person; or
  - 1879 (ii) the telecommunications service that the person owns, controls, operates, or
  - 1880 manages.
- 1881 (115) (a) "Telecommunications switching or routing equipment, machinery, or
- 1882 software" means an item listed in Subsection (115)(b) if that item is purchased or leased
- 1883 primarily for switching or routing:
  - 1884 (i) an ancillary service;
  - 1885 (ii) data communications;
  - 1886 (iii) voice communications; or
  - 1887 (iv) telecommunications service.

1888 (b) The following apply to Subsection (115)(a):  
1889 (i) a bridge;  
1890 (ii) a computer;  
1891 (iii) a cross connect;  
1892 (iv) a modem;  
1893 (v) a multiplexer;  
1894 (vi) plug in circuitry;  
1895 (vii) a router;  
1896 (viii) software;  
1897 (ix) a switch; or  
1898 (x) equipment, machinery, or software that functions similarly to an item listed in  
1899 Subsections (115)(b)(i) through (ix) as determined by the commission by rule made in  
1900 accordance with Subsection (115)(c).

1901 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1902 commission may by rule define what constitutes equipment, machinery, or software that  
1903 functions similarly to an item listed in Subsections (115)(b)(i) through (ix).

1904 (116) (a) "Telecommunications transmission equipment, machinery, or software"  
1905 means an item listed in Subsection (116)(b) if that item is purchased or leased primarily for  
1906 sending, receiving, or transporting:

1907 (i) an ancillary service;  
1908 (ii) data communications;  
1909 (iii) voice communications; or  
1910 (iv) telecommunications service.

1911 (b) The following apply to Subsection (116)(a):  
1912 (i) an amplifier;  
1913 (ii) a cable;  
1914 (iii) a closure;  
1915 (iv) a conduit;  
1916 (v) a controller;  
1917 (vi) a duplexer;  
1918 (vii) a filter;

- 1919 (viii) an input device;
- 1920 (ix) an input/output device;
- 1921 (x) an insulator;
- 1922 (xi) microwave machinery or equipment;
- 1923 (xii) an oscillator;
- 1924 (xiii) an output device;
- 1925 (xiv) a pedestal;
- 1926 (xv) a power converter;
- 1927 (xvi) a power supply;
- 1928 (xvii) a radio channel;
- 1929 (xviii) a radio receiver;
- 1930 (xix) a radio transmitter;
- 1931 (xx) a repeater;
- 1932 (xxi) software;
- 1933 (xxii) a terminal;
- 1934 (xxiii) a timing unit;
- 1935 (xxiv) a transformer;
- 1936 (xxv) a wire; or
- 1937 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1938 Subsections (116)(b)(i) through (xxv) as determined by the commission by rule made in
- 1939 accordance with Subsection (116)(c).
- 1940 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1941 commission may by rule define what constitutes equipment, machinery, or software that
- 1942 functions similarly to an item listed in Subsections (116)(b)(i) through (xxv).
- 1943 (117) "Tobacco" means:
- 1944 (a) a cigarette;
- 1945 (b) a cigar;
- 1946 (c) chewing tobacco;
- 1947 (d) pipe tobacco; or
- 1948 (e) any other item that contains tobacco.
- 1949 (118) "Unassisted amusement device" means an amusement device, skill device, or

1950 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1951 the amusement device, skill device, or ride device.

1952 (119) (a) "Use" means the exercise of any right or power over tangible personal  
1953 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
1954 incident to the ownership or the leasing of that tangible personal property, product transferred  
1955 electronically, or service.

1956 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1957 property, a product transferred electronically, or a service in the regular course of business and  
1958 held for resale.

1959 (120) "Value-added nonvoice data service" means a service:

1960 (a) that otherwise meets the definition of a telecommunications service except that a  
1961 computer processing application is used to act primarily for a purpose other than conveyance,  
1962 routing, or transmission; and

1963 (b) with respect to which a computer processing application is used to act on data or  
1964 information:

- 1965 (i) code;
- 1966 (ii) content;
- 1967 (iii) form; or
- 1968 (iv) protocol.

1969 (121) (a) Subject to Subsection (121)(b), "vehicle" means the following that are  
1970 required to be titled, registered, or titled and registered:

- 1971 (i) an aircraft as defined in Section 72-10-102;
- 1972 (ii) a vehicle as defined in Section 41-1a-102;
- 1973 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1974 (iv) a vessel as defined in Section 41-1a-102.

1975 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1976 (i) a vehicle described in Subsection (121)(a); or
- 1977 (ii) (A) a locomotive;
- 1978 (B) a freight car;
- 1979 (C) railroad work equipment; or
- 1980 (D) other railroad rolling stock.

1981 (122) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
1982 exchanging a vehicle as defined in Subsection (121).

1983 (123) (a) "Vertical service" means an ancillary service that:

1984 (i) is offered in connection with one or more telecommunications services; and

1985 (ii) offers an advanced calling feature that allows a customer to:

1986 (A) identify a caller; and

1987 (B) manage multiple calls and call connections.

1988 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
1989 conference bridging service.

1990 (124) (a) "Voice mail service" means an ancillary service that enables a customer to  
1991 receive, send, or store a recorded message.

1992 (b) "Voice mail service" does not include a vertical service that a customer is required  
1993 to have in order to utilize a voice mail service.

1994 (125) (a) Except as provided in Subsection (125)(b), "waste energy facility" means a  
1995 facility that generates electricity:

1996 (i) using as the primary source of energy waste materials that would be placed in a  
1997 landfill or refuse pit if it were not used to generate electricity, including:

1998 (A) tires;

1999 (B) waste coal; or

2000 (C) oil shale; and

2001 (ii) in amounts greater than actually required for the operation of the facility.

2002 (b) "Waste energy facility" does not include a facility that incinerates:

2003 (i) municipal solid waste;

2004 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

2005 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2006 (126) "Watercraft" means a vessel as defined in Section 73-18-2.

2007 (127) "Wind energy" means wind used as the sole source of energy to produce  
2008 electricity.

2009 (128) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
2010 location by the United States Postal Service.

2011 Section 8. Section **59-12-103** is amended to read:

2012           **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
2013 **tax revenues.**

2014           (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
2015 charged for the following transactions:

2016           (a) retail sales of tangible personal property made within the state;

2017           (b) amounts paid for:

2018           (i) telecommunications service, other than mobile telecommunications service, that  
2019 originates and terminates within the boundaries of this state;

2020           (ii) mobile telecommunications service that originates and terminates within the  
2021 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
2022 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2023           (iii) an ancillary service associated with a:

2024           (A) telecommunications service described in Subsection (1)(b)(i); or

2025           (B) mobile telecommunications service described in Subsection (1)(b)(ii);

2026           (c) sales of the following for commercial use:

2027           (i) gas;

2028           (ii) electricity;

2029           (iii) heat;

2030           (iv) coal;

2031           (v) fuel oil; or

2032           (vi) other fuels;

2033           (d) sales of the following for residential use:

2034           (i) gas;

2035           (ii) electricity;

2036           (iii) heat;

2037           (iv) coal;

2038           (v) fuel oil; or

2039           (vi) other fuels;

2040           (e) sales of prepared food;

2041           (f) except as provided in Section 59-12-104, amounts paid or charged as admission or  
2042 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,

2043 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,  
2044 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit  
2045 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf  
2046 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,  
2047 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,  
2048 horseback rides, sports activities, or any other amusement, entertainment, recreation,  
2049 exhibition, cultural, or athletic activity;

2050 (g) amounts paid or charged for services for repairs or renovations of tangible personal  
2051 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

2052 (i) the tangible personal property; and

2053 (ii) parts used in the repairs or renovations of the tangible personal property described  
2054 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations  
2055 of that tangible personal property;

2056 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
2057 assisted cleaning or washing of tangible personal property;

2058 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
2059 accommodations and services that are regularly rented for less than 30 consecutive days;

2060 (j) amounts paid or charged for laundry or dry cleaning services;

2061 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
2062 this state the tangible personal property is:

2063 (i) stored;

2064 (ii) used; or

2065 (iii) otherwise consumed;

2066 (l) amounts paid or charged for tangible personal property if within this state the  
2067 tangible personal property is:

2068 (i) stored;

2069 (ii) used; or

2070 (iii) consumed; and

2071 (m) amounts paid or charged for a sale:

2072 (i) (A) of a product that:

2073 (I) is transferred electronically; and

2074 (II) would be subject to a tax under this chapter if the product was transferred in a  
2075 manner other than electronically; or

2076 (B) of a repair or renovation of a product that:

2077 (I) is transferred electronically; and

2078 (II) would be subject to a tax under this chapter if the product was transferred in a  
2079 manner other than electronically; and

2080 (ii) regardless of whether the sale provides:

2081 (A) a right of permanent use of the product; or

2082 (B) a right to use the product that is less than a permanent use, including a right:

2083 (I) for a definite or specified length of time; and

2084 (II) that terminates upon the occurrence of a condition.

2085 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax  
2086 is imposed on a transaction described in Subsection (1) equal to the sum of:

2087 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2088 (A) [~~4.70%~~] 4.81%; and

2089 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
2090 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
2091 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
2092 State Sales and Use Tax Act; and

2093 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
2094 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
2095 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
2096 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2097 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
2098 transaction under this chapter other than this part.

2099 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed  
2100 on a transaction described in Subsection (1)(d) equal to the sum of:

2101 (i) a state tax imposed on the transaction at a tax rate of 2%; and

2102 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
2103 transaction under this chapter other than this part.

2104 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed

2105 on amounts paid or charged for food and food ingredients equal to the sum of:

2106 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
2107 a tax rate of 1.75%; and

2108 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
2109 amounts paid or charged for food and food ingredients under this chapter other than this part.

2110 (d) (i) For a bundled transaction that is attributable to food and food ingredients and  
2111 tangible personal property other than food and food ingredients, a state tax and a local tax is  
2112 imposed on the entire bundled transaction equal to the sum of:

2113 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2114 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2115 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
2116 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
2117 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
2118 Additional State Sales and Use Tax Act; and

2119 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
2120 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
2121 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
2122 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2123 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
2124 described in Subsection (2)(a)(ii).

2125 (ii) Subject to Subsection (2)(d)(iii), for a bundled transaction other than a bundled  
2126 transaction described in Subsection (2)(d)(i):

2127 (A) if the sales price of the bundled transaction is attributable to tangible personal  
2128 property, a product, or a service that is subject to taxation under this chapter and tangible  
2129 personal property, a product, or service that is not subject to taxation under this chapter, the  
2130 entire bundled transaction is subject to taxation under this chapter unless:

2131 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
2132 personal property, product, or service that is not subject to taxation under this chapter from the  
2133 books and records the seller keeps in the seller's regular course of business; or

2134 (II) state or federal law provides otherwise; or

2135 (B) if the sales price of a bundled transaction is attributable to two or more items of

2136 tangible personal property, products, or services that are subject to taxation under this chapter  
2137 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
2138 higher tax rate unless:

2139 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
2140 personal property, product, or service that is subject to taxation under this chapter at the lower  
2141 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2142 (II) state or federal law provides otherwise.

2143 (iii) For purposes of Subsection (2)(d)(ii), books and records that a seller keeps in the  
2144 seller's regular course of business includes books and records the seller keeps in the regular  
2145 course of business for nontax purposes.

2146 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax  
2147 rate imposed under the following shall take effect on the first day of a calendar quarter:

2148 (i) Subsection (2)(a)(i)(A);

2149 (ii) Subsection (2)(b)(i);

2150 (iii) Subsection (2)(c)(i); or

2151 (iv) Subsection (2)(d)(i)(A)(I).

2152 (f) (i) A tax rate increase shall take effect on the first day of the first billing period that  
2153 begins after the effective date of the tax rate increase if the billing period for the transaction  
2154 begins before the effective date of a tax rate increase imposed under:

2155 (A) Subsection (2)(a)(i)(A);

2156 (B) Subsection (2)(b)(i);

2157 (C) Subsection (2)(c)(i); or

2158 (D) Subsection (2)(d)(i)(A)(I).

2159 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
2160 billing period that began before the effective date of the repeal of the tax or the tax rate  
2161 decrease if the billing period for the transaction begins before the effective date of the repeal of  
2162 the tax or the tax rate decrease imposed under:

2163 (A) Subsection (2)(a)(i)(A);

2164 (B) Subsection (2)(b)(i);

2165 (C) Subsection (2)(c)(i); or

2166 (D) Subsection (2)(d)(i)(A)(I).

2167 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale  
2168 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal  
2169 or change in a tax rate takes effect:

2170 (A) on the first day of a calendar quarter; and

2171 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

2172 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:

2173 (A) Subsection (2)(a)(i)(A);

2174 (B) Subsection (2)(b)(i);

2175 (C) Subsection (2)(c)(i); or

2176 (D) Subsection (2)(d)(i)(A)(I).

2177 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
2178 the commission may by rule define the term "catalogue sale."

2179 (3) (a) The following state taxes shall be deposited into the General Fund:

2180 (i) the tax imposed by Subsection (2)(a)(i)(A);

2181 (ii) the tax imposed by Subsection (2)(b)(i);

2182 (iii) the tax imposed by Subsection (2)(c)(i); or

2183 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

2184 (b) The following local taxes shall be distributed to a county, city, or town as provided  
2185 in this chapter:

2186 (i) the tax imposed by Subsection (2)(a)(ii);

2187 (ii) the tax imposed by Subsection (2)(b)(ii);

2188 (iii) the tax imposed by Subsection (2)(c)(ii); and

2189 (iv) the tax imposed by Subsection (2)(d)(i)(B).

2190 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
2191 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
2192 through (g):

2193 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2194 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2195 (B) for the fiscal year; or

2196 (ii) \$17,500,000.

2197 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

2198 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
2199 Department of Natural Resources to:

2200 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
2201 protect sensitive plant and animal species; or

2202 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
2203 act, to political subdivisions of the state to implement the measures described in Subsections  
2204 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

2205 (ii) Money transferred to the Department of Natural Resources under Subsection  
2206 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
2207 person to list or attempt to have listed a species as threatened or endangered under the  
2208 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2209 (iii) At the end of each fiscal year:

2210 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
2211 Conservation and Development Fund created in Section 73-10-24;

2212 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
2213 Program Subaccount created in Section 73-10c-5; and

2214 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
2215 Program Subaccount created in Section 73-10c-5.

2216 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
2217 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
2218 created in Section 4-18-6.

2219 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
2220 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
2221 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
2222 water rights.

2223 (ii) At the end of each fiscal year:

2224 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
2225 Conservation and Development Fund created in Section 73-10-24;

2226 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
2227 Program Subaccount created in Section 73-10c-5; and

2228 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

2229 Program Subaccount created in Section 73-10c-5.

2230 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
2231 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development  
2232 Fund created in Section 73-10-24 for use by the Division of Water Resources.

2233 (ii) In addition to the uses allowed of the Water Resources Conservation and  
2234 Development Fund under Section 73-10-24, the Water Resources Conservation and  
2235 Development Fund may also be used to:

2236 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
2237 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
2238 quantifying surface and ground water resources and describing the hydrologic systems of an  
2239 area in sufficient detail so as to enable local and state resource managers to plan for and  
2240 accommodate growth in water use without jeopardizing the resource;

2241 (B) fund state required dam safety improvements; and

2242 (C) protect the state's interest in interstate water compact allocations, including the  
2243 hiring of technical and legal staff.

2244 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
2245 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount  
2246 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2247 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
2248 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount  
2249 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2250 (i) provide for the installation and repair of collection, treatment, storage, and  
2251 distribution facilities for any public water system, as defined in Section 19-4-102;

2252 (ii) develop underground sources of water, including springs and wells; and

2253 (iii) develop surface water sources.

2254 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
2255 2006, the difference between the following amounts shall be expended as provided in this  
2256 Subsection (5), if that difference is greater than \$1:

2257 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
2258 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2259 (ii) \$17,500,000.

2260 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2261 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
2262 credits; and

2263 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
2264 restoration.

2265 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
2266 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
2267 created in Section 73-10-24.

2268 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
2269 remaining difference described in Subsection (5)(a) shall be:

2270 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
2271 credits; and

2272 (B) expended by the Division of Water Resources for cloud-seeding projects  
2273 authorized by Title 73, Chapter 15, Modification of Weather.

2274 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
2275 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
2276 created in Section 73-10-24.

2277 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the  
2278 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
2279 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
2280 Division of Water Resources for:

2281 (i) preconstruction costs:

2282 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
2283 26, Bear River Development Act; and

2284 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
2285 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2286 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
2287 Chapter 26, Bear River Development Act;

2288 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
2289 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2290 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and

2291 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2292 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water  
2293 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

2294 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to  
2295 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be  
2296 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
2297 incurred for employing additional technical staff for the administration of water rights.

2298 (g) At the end of each fiscal year, any unexpended dedicated credits described in  
2299 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development  
2300 Fund created in Section 73-10-24.

2301 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
2302 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%  
2303 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in  
2304 the Transportation Fund created by Section 72-2-102.

2305 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,  
2306 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial  
2307 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed  
2308 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable  
2309 transactions under Subsection (1).

2310 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds  
2311 have been paid off and the highway projects completed that are intended to be paid from  
2312 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
2313 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of  
2314 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
2315 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
2316 by a 1/64% tax rate on the taxable transactions under Subsection (1).

2317 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in  
2318 Subsection (7)(a), and until Subsection (8)(b) applies, for a fiscal year beginning on or after  
2319 July 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund  
2320 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection  
2321 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a

2322 portion of the approximately 17% of sales and use tax revenues generated annually by the sales  
2323 and use tax on vehicles and vehicle-related products:

- 2324 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 2325 (ii) the tax imposed by Subsection (2)(b)(i);
- 2326 (iii) the tax imposed by Subsection (2)(c)(i); and
- 2327 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

2328 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under  
2329 Subsection (7)(b), when the highway general obligation bonds have been paid off and the  
2330 highway projects completed that are intended to be paid from revenues deposited in the  
2331 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations  
2332 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the  
2333 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes  
2334 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes,  
2335 which represents a portion of the approximately 17% of sales and use tax revenues generated  
2336 annually by the sales and use tax on vehicles and vehicle-related products:

- 2337 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 2338 (ii) the tax imposed by Subsection (2)(b)(i);
- 2339 (iii) the tax imposed by Subsection (2)(c)(i); and
- 2340 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

2341 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the  
2342 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed  
2343 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

2344 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal  
2345 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit  
2346 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the  
2347 Critical Highway Needs Fund created by Section 72-2-125.

2348 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under  
2349 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101  
2350 have been paid off and the highway projects completed that are included in the prioritized  
2351 project list under Subsection 72-2-125(4) as determined in accordance with Subsection  
2352 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues

2353 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund  
2354 of 2005 created by Section 72-2-124.

2355 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
2356 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
2357 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

2358 (11) (a) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection  
2359 (11)(a)(ii), and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of  
2360 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the  
2361 amount of tax revenue generated by a .025% tax rate on the transactions described in  
2362 Subsection (1).

2363 (ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit into  
2364 the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged for  
2365 food and food ingredients, except for tax revenue generated by a bundled transaction  
2366 attributable to food and food ingredients and tangible personal property other than food and  
2367 food ingredients described in Subsection (2)(e).

2368 (b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii),  
2369 and in addition to any amounts deposited under Subsections (7), (9), and (10), when the general  
2370 obligation bonds authorized by Section 63B-16-101 have been paid off and the highway  
2371 projects completed that are included in the prioritized project list under Subsection 72-2-125(4)  
2372 as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall  
2373 deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the  
2374 amount of tax revenue generated by a .025% tax rate on the transactions described in  
2375 Subsection (1).

2376 (ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into  
2377 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or  
2378 charged for food and food ingredients, except for tax revenue generated by a bundled  
2379 transaction attributable to food and food ingredients and tangible personal property other than  
2380 food and food ingredients described in Subsection (2)(e).

2381 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection  
2382 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the  
2383 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a

2384 .025% tax rate on the transactions described in Subsection (1) to be expended to address  
2385 chokepoints in construction management.

2386 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into  
2387 the Transportation Fund any tax revenue generated by amounts paid or charged for food and  
2388 food ingredients, except for tax revenue generated by a bundled transaction attributable to food  
2389 and food ingredients and tangible personal property other than food and food ingredients  
2390 described in Subsection (2)(e).

2391 (13) ~~H→~~ (a) ~~←H~~ Notwithstanding Subsection (3)(a) ~~H→~~ and except as provided in  
2391a Subsection (13)(b) ~~←H~~ , the ~~H→~~ [following amounts shall be deposited] Division of Finance shall  
2391b deposit the following amounts ~~←H~~ into  
2392 the Rural Health Care Compensation Fund created by Section 26-9-5 and expended as provided  
2393 in Section 26-9-5:

2394 ~~H→~~ [(a)] (i) ~~←H~~ for the time period beginning on January 1, 2011, and ending on June 30,  
2394a 2011,

2395 ~~H→~~ [~~\$4,300,000~~] the amount of tax revenue generated by a .0111260915% tax rate on the  
2395a transactions described in Subsection (1) ~~←H~~ ; and

2396 ~~H→~~ [(b)] (ii) ~~←H~~ for each fiscal year beginning with fiscal year 2011-12, ~~H→~~ [~~\$8,600,000~~]  
2396a the amount of tax revenue generated by a .02190604% tax rate on the transactions described  
2396b in Subsection (1) ~~←H~~ .

2396c ~~H→~~ (b) For purposes of Subsection (13)(a), the Division of Finance may not deposit into the  
2396d Rural Health Care Compensation Fund any tax revenue generated by amounts paid or  
2396e charged for food and food ingredients, except for tax revenue generated by a bundled  
2396f transaction attributable to food and food ingredients and tangible personal property other  
2396g than food and food ingredients described in Subsection (2)(e). ~~←H~~

2397 (14) ~~H→~~ (a) ~~←H~~ Notwithstanding Subsection (3)(a) ~~H→~~ and except as provided in  
2397a Subsection (14)(b) ~~←H~~ , the ~~H→~~ [following amounts shall be deposited] Division of Finance shall  
2397b deposit the following amounts ~~←H~~ into  
2398 the Tourism, Recreation, Cultural, Convention, and Airport Facilities Fund created by Section  
2399 63M-1-1407 and expended as provided in Section 63M-1-1407:

2400 ~~H→~~ [(a)] (i) ~~←H~~ for the time period beginning on January 1, 2011, and ending on June 30,  
2400a 2011,

2401 ~~H→~~ [~~\$15,500,000~~] the amount of tax revenue generated by a .0392315788% tax rate on the  
2401a transactions described in Subsection (1) ~~←H~~ ; and

2402 ~~H→~~ [(b)] (ii) ~~←H~~ for each fiscal year beginning with fiscal year 2011-12,

2402a ~~H~~→ [~~\$31,000,000~~] the amount of tax revenue generated by a .07896386% tax rate on the  
 2402b transactions described in Subsection (1) ←~~H~~ .

2402c ~~H~~→ (b) For purposes of Subsection (14)(a), the Division of Finance may not deposit into  
 2402d the Tourism, Recreation, Cultural, Convention, and Airport Facilities Fund any tax revenue  
 2402e generated by amounts paid or charged for food and food ingredients, except for tax revenue  
 2402f generated by a bundled transaction attributable to food and food ingredients and tangible  
 2402g personal property other than food and food ingredients described in Subsection (2)(e). ←~~H~~

2403 Section 9. Section **59-12-204** is amended to read:

2404 **59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of**  
 2405 **tax revenues -- Commission requirement to retain an amount to be deposited into the**  
 2406 **Qualified Emergency Food Agencies Fund.**

2407 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those  
 2408 transactions listed in Subsection 59-12-103(1).

2409 (2) (a) The tax ordinance under Subsection (1) shall include a provision imposing a tax  
 2410 upon every transaction listed in Subsection 59-12-103(1) made within a county, including areas  
 2411 contained within the cities and towns located in the county:

2412 (i) at the rate of 1% of the purchase price paid or charged; and  
 2413 (ii) if the [~~transaction is consummated~~] location of the transaction is within the county  
 2414 in accordance with Section 59-12-205.

2415 (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall  
2416 include a provision prohibiting a county, city, or town from imposing a tax under this section  
2417 on the sales and uses described in Section 59-12-104 to the extent the sales and uses are  
2418 exempt from taxation under Section 59-12-104.

2419 (3) Such tax ordinance shall include provisions substantially the same as those  
2420 contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the  
2421 name of the county as the taxing agency shall be substituted for that of the state where  
2422 necessary for the purpose of this part and that an additional license is not required if one has  
2423 been or is issued under Section 59-12-106.

2424 (4) Such tax ordinance shall include a provision that the county shall contract, prior to  
2425 the effective date of the ordinance, with the commission to perform all functions incident to the  
2426 administration or operation of the ordinance.

2427 (5) Such tax ordinance shall include a provision that the sale, storage, use, or other  
2428 consumption of tangible personal property, the purchase price or the cost of which has been  
2429 subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this  
2430 part by any county, city, or town in any other county in this state, shall be exempt from the tax  
2431 due under this ordinance.

2432 (6) Such tax ordinance shall include a provision that any person subject to the  
2433 provisions of a city or town sales and use tax shall be exempt from the county sales and use tax  
2434 if the city or town sales and use tax is levied under an ordinance including provisions in  
2435 substance as follows:

2436 (a) a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1)  
2437 made within the city or town at the rate imposed by the county in which it is situated pursuant  
2438 to Subsection (2);

2439 (b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from  
2440 imposing a tax under this section on the sales and uses described in Section 59-12-104 to the  
2441 extent the sales and uses are exempt from taxation under Section 59-12-104;

2442 (c) provisions substantially the same as those contained in Part 1, Tax Collection,  
2443 insofar as they relate to sales and use taxes, except that the name of the city or town as the  
2444 taxing agency shall be substituted for that of the state where necessary for the purposes of this  
2445 part;

2446 (d) a provision that the city or town shall contract prior to the effective date of the city  
2447 or town sales and use tax ordinance with the commission to perform all functions incident to  
2448 the administration or operation of the sales and use tax ordinance of the city or town;

2449 (e) a provision that the sale, storage, use, or other consumption of tangible personal  
2450 property, the gross receipts from the sale of or the cost of which has been subject to sales or use  
2451 tax under a sales and use tax ordinance enacted in accordance with this part by any county  
2452 other than the county in which the city or town is located, or city or town in this state, shall be  
2453 exempt from the tax; and

2454 (f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not  
2455 be included as a part of the purchase price paid or charged for a taxable item.

2456 (7) Notwithstanding any other provision of this section, beginning July 1, 2000, the  
2457 commission shall:

2458 (a) determine and retain the portion of sales and use tax imposed under this section:

2459 (i) by each county and by each city and town within that county whose legislative body  
2460 consents by resolution to the commission's retaining and depositing sales and use tax revenues  
2461 as provided in this Subsection (7); and

2462 (ii) that is equal to the revenues generated by a 1/64% tax rate;

2463 (b) deposit the revenues described in Subsection (7)(a) into a special fund of the  
2464 county, or a city, town, or other political subdivision of the state located within that county, that  
2465 has issued bonds to finance sports or recreational facilities or that is leasing sports or  
2466 recreational facilities, in order to repay those bonds or to pay the lease payments; and

2467 (c) continue to deposit those revenues into the special fund only as long as the bonds or  
2468 leases are outstanding.

2469 (8) (a) Notwithstanding any other provision of this section, beginning on July 1, 2009,  
2470 the commission shall calculate and retain a portion of the sales and use tax collected under this  
2471 part as provided in this Subsection (8).

2472 (b) For a city, town, or unincorporated area of a county that imposes a tax under this  
2473 part, the commission shall calculate a percentage each month by dividing the sales and use tax  
2474 collected under this part for that month within the boundaries of that city, town, or  
2475 unincorporated area of a county by the total sales and use tax collected under this part for that  
2476 month within the boundaries of all of the cities, towns, and unincorporated areas of the

2477 counties that impose a tax under this part.

2478 (c) For a city, town, or unincorporated area of a county that imposes a tax under this  
2479 part, the commission shall retain each month an amount equal to the product of:

2480 (i) the percentage the commission determines for the month under Subsection (8)(b)  
2481 for the city, town, or unincorporated area of a county; and

2482 (ii) \$25,417.

2483 (d) The commission shall deposit an amount the commission retains in accordance  
2484 with this Subsection (8) into the Qualified Emergency Food Agencies Fund created by Section  
2485 9-4-1409.

2486 (e) An amount the commission deposits into the Qualified Emergency Food Agencies  
2487 Fund shall be expended as provided in Section 9-4-1409.

2488 Section 10. Section **59-12-205** is amended to read:

2489 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**  
2490 **tax revenues -- Determination of population.**

2491 (1) Each county, city, and town, in order to maintain in effect sales and use tax  
2492 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of  
2493 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales  
2494 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as  
2495 they relate to sales and use taxes.

2496 (2) (a) Except as provided in Subsections (3) through (5)[:], the commission shall  
2497 distribute revenues collected from the sales and use tax authorized by this part as provided in  
2498 this Subsection (2).

2499 (b) Before the commission makes a distribution in accordance with Subsections (2)(c)  
2500 and (d), the commission shall retain the charge required by Section 59-12-206.

2501 (c) After the amounts described in Subsection (2)(b) are retained in accordance with  
2502 Subsection (2)(b), the commission shall distribute:

2503 (i) for the time period beginning on January 1, 2011, and ending on June 30, 2011,  
2504 \$16,500 to each town that imposes a town option sales and use tax:

2505 (A) on December 31, 2010; and

2506 (B) that is repealed by this bill; and

2507 (ii) for each fiscal year beginning with fiscal year 2011-12, \$33,000 to each town that

2508 imposes a town option sales and use tax:

2509 (A) on December 31, 2010; and

2510 (B) that is repealed by this bill.

2511 (d) After the commission makes the distributions required by Subsection (2)(c), the  
2512 commission shall distribute the remaining amount of revenues collected from the sales and use  
2513 tax authorized by this part as follows:

2514 ~~[(a)]~~ (i) 50% of each dollar collected from the sales and use tax authorized by this part  
2515 shall be paid to each county, city, and town on the basis of the percentage that the population of  
2516 the county, city, or town bears to the total population of all counties, cities, and towns in the  
2517 state; and

2518 ~~[(b)]~~ ~~(i)~~ (ii) (A) except as provided in Subsection (2)~~[(b)]~~(d)(ii)(B), 50% of each dollar  
2519 collected from the sales and use tax authorized by this part shall be paid to each county, city,  
2520 and town on the basis of the location [~~where~~] of the transaction [~~is consummated~~] as  
2521 determined under Sections 59-12-211 through 59-12-215; and

2522 ~~[(i)]~~ (B) 50% of each dollar collected from the sales and use tax authorized by this part  
2523 within a project area described in a project area plan adopted by the military installation  
2524 development authority under Title 63H, Chapter 1, Military Installation Development  
2525 Authority Act, shall be paid to the military installation development authority created in  
2526 Section 63H-1-201.

2527 (3) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year  
2528 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of  
2529 the taxable sales within the boundaries of the county, city, or town.

2530 (b) The commission shall proportionally reduce monthly distributions to any county,  
2531 city, or town that, but for the reduction, would receive a distribution in excess of 1% of the  
2532 sales and use tax revenue collected within the boundaries of the county, city, or town.

2533 (4) (a) As used in this Subsection (4):

2534 (i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or  
2535 more in tax revenue distributions in accordance with Subsection (3) for each of the following  
2536 fiscal years:

2537 (A) fiscal year 2002-03;

2538 (B) fiscal year 2003-04; and

2539 (C) fiscal year 2004-05.

2540 (ii) "Minimum tax revenue distribution" means the greater of:

2541 (A) the total amount of tax revenue distributions an eligible county, city, or town  
2542 receives from a tax imposed in accordance with this part for fiscal year 2000-01; or

2543 (B) the total amount of tax revenue distributions an eligible county, city, or town  
2544 receives from a tax imposed in accordance with this part for fiscal year 2004-05.

2545 (b) (i) Notwithstanding Subsection (2) and except as provided in Subsection (4)(b)(ii),  
2546 beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county,  
2547 city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this  
2548 part equal to the greater of:

2549 (A) the payment required by Subsection (2); or

2550 (B) the minimum tax revenue distribution.

2551 (ii) If the tax revenue distribution required by Subsection (4)(b)(i) for an eligible  
2552 county, city, or town is equal to the amount described in Subsection (4)(b)(i)(A) for three  
2553 consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following  
2554 that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax  
2555 revenue distribution equal to the payment required by Subsection (2).

2556 (c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year  
2557 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution  
2558 for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that  
2559 eligible county, city, or town is less than or equal to the product of:

2560 (i) the minimum tax revenue distribution; and

2561 (ii) .90.

2562 (5) (a) Population figures for purposes of this section shall be based on the most recent  
2563 official census or census estimate of the United States Census Bureau.

2564 (b) If a needed population estimate is not available from the United States Census  
2565 Bureau, population figures shall be derived from the estimate from the Utah Population  
2566 Estimates Committee created by executive order of the governor.

2567 (6) The population of a county for purposes of this section shall be determined solely  
2568 from the unincorporated area of the county.

2569 Section 11. Section **59-12-211** is amended to read:

- 2570           **59-12-211. Definitions -- Location of certain transactions -- Reports to**  
2571 **commission -- Direct payment provision for a seller making certain purchases --**  
2572 **Exceptions.**
- 2573           (1) As used in this section:
- 2574           (a) (i) "Receipt" and "receive" mean:
- 2575               (A) taking possession of tangible personal property;
- 2576               (B) making first use of a service; or
- 2577               (C) for a product transferred electronically, the earlier of:
- 2578               (I) taking possession of the product transferred electronically; or
- 2579               (II) making first use of the product transferred electronically.
- 2580           (ii) "Receipt" and "receive" do not include possession by a shipping company on behalf  
2581 of a purchaser.
- 2582           (b) "Transportation equipment" means:
- 2583               (i) a locomotive or rail car that is used to carry a person or property in interstate  
2584 commerce;
- 2585               (ii) a truck or truck-tractor:
- 2586                   (A) with a gross vehicle weight rating of 10,001 pounds or more;
- 2587                   (B) registered under Section 41-1a-301; and
- 2588                   (C) operated under the authority of a carrier authorized and certificated:
- 2589                       (I) by the United States Department of Transportation or another federal authority; and
- 2590                       (II) to engage in carrying a person or property in interstate commerce;
- 2591               (iii) a trailer, semitrailer, or passenger bus that is:
- 2592                   (A) registered under Section 41-1a-301; and
- 2593                   (B) operated under the authority of a carrier authorized and certificated:
- 2594                       (I) by the United States Department of Transportation or another federal authority; and
- 2595                       (II) to engage in carrying a person or property in interstate commerce;
- 2596               (iv) an aircraft that is operated by an air carrier authorized and certificated:
- 2597                   (A) by the United States Department of Transportation or another federal or foreign  
2598 authority; and
- 2599                   (B) to engage in carrying a person or property in interstate commerce; or
- 2600               (v) a container designed for use on, or a component part attached or secured on, an

2601 item of equipment listed in[-] Subsections (1)(b)(i) through (iv).

2602 (2) Except as provided in Subsections (8) and (13), if tangible personal property, a  
2603 product transferred electronically, or a service that is subject to taxation under this chapter is  
2604 received by a purchaser at a business location of a seller, the location of the transaction is the  
2605 business location of the seller.

2606 (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),  
2607 and (13), if tangible personal property, a product transferred electronically, or a service that is  
2608 subject to taxation under this chapter is not received by a purchaser at a business location of a  
2609 seller, the location of the transaction is the location where the purchaser takes receipt of the  
2610 tangible personal property or service.

2611 (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),  
2612 and (13), if Subsection (2) or (3) does not apply, the location of the transaction is the location  
2613 indicated by an address for or other information on the purchaser if:

- 2614 (a) the address or other information is available from the seller's business records; and
- 2615 (b) use of the address or other information from the seller's records does not constitute  
2616 bad faith.

2617 (5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),  
2618 (11), and (13), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the  
2619 location indicated by an address for the purchaser if:

- 2620 (i) the address is obtained during the consummation of the transaction; and
- 2621 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.
- 2622 (b) An address used under Subsection (5)(a) includes the address of a purchaser's  
2623 payment instrument if no other address is available.

2624 (6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),  
2625 and (13), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient  
2626 information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the  
2627 location indicated by the address from which:

- 2628 (a) except as provided in Subsection (6)(b), for tangible personal property that is  
2629 subject to taxation under this chapter, the tangible personal property is shipped;
- 2630 (b) for computer software delivered electronically or for a product transferred  
2631 electronically that is subject to taxation under this chapter, the computer software or product

2632 transferred electronically is first available for transmission by the seller; or

2633 (c) for a service that is subject to taxation under this chapter, the service is provided.

2634 (7) (a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP  
2635 Code that is located within two or more local taxing jurisdictions.

2636 (b) If the location of a transaction determined under Subsections (3) through (6) is in a  
2637 shared ZIP Code, the location of the transaction is:

2638 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement  
2639 combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest  
2640 agreement combined tax rate; or

2641 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax  
2642 rate for the shared ZIP Code, the local taxing jurisdiction that:

2643 (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

2644 (B) has located within the local taxing jurisdiction the largest number of street  
2645 addresses within the shared ZIP Code.

2646 (c) ~~[For]~~ Notwithstanding any provision under this chapter authorizing or requiring the  
2647 imposition of a sales and use tax, for purposes of Subsection (7)(b), a seller shall collect a sales  
2648 and use tax imposed under this chapter at the lowest agreement combined tax rate imposed  
2649 within the local taxing jurisdiction in which the transaction is located under Subsection (7)(b)  
2650 [notwithstanding:].

2651 ~~[(i) Section 59-12-204;]~~

2652 ~~[(ii) Section 59-12-401;]~~

2653 ~~[(iii) Section 59-12-402;]~~

2654 ~~[(iv) Section 59-12-501;]~~

2655 ~~[(v) Section 59-12-502;]~~

2656 ~~[(vi) Section 59-12-703;]~~

2657 ~~[(vii) Section 59-12-802;]~~

2658 ~~[(viii) Section 59-12-804;]~~

2659 ~~[(ix) Section 59-12-1001;]~~

2660 ~~[(x) Section 59-12-1102;]~~

2661 ~~[(xi) Section 59-12-1302;]~~

2662 ~~[(xii) Section 59-12-1402;]~~

2663 [~~(xiii) Section 59-12-1503;~~]

2664 [~~(xiv) Section 59-12-1703; or~~]

2665 [~~(xv) Section 59-12-1802;~~]

2666 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2667 commission may make rules:

2668 (i) providing for the circumstances under which a seller has exercised due diligence in  
2669 determining the nine-digit ZIP Code for an address; or

2670 (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction  
2671 within which a transaction is located if a seller is unable to determine the local taxing  
2672 jurisdiction within which the transaction is located under Subsection (7)(b).

2673 (8) The location of a transaction made with a direct payment permit described in  
2674 Section 59-12-107.1 is the location where receipt of the tangible personal property, product, or  
2675 service by the purchaser occurs.

2676 (9) The location of a purchase of direct mail is the location described in Subsection (6),  
2677 if the purchaser of the direct mail:

2678 (a) has not been issued a direct payment permit under Section 59-12-107.1; and

2679 (b) does not provide the seller the form or information described in Subsection  
2680 59-12-123(1).

2681 (10) (a) Except as provided in Subsection (10)(b), the location of a transaction  
2682 determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within  
2683 which:

2684 (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3)  
2685 through (6), (8), or (9) is located; or

2686 (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3)  
2687 through (6), (8), or (9) is located if:

2688 (A) a nine-digit ZIP Code is not available for the location determined under  
2689 Subsections (3) through (6), (8), or (9); or

2690 (B) after exercising due diligence, a seller or certified service provider is unable to  
2691 determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6),  
2692 (8), or (9).

2693 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2694 commission may make rules for determining the local taxing jurisdiction within which a  
2695 transaction is located if a seller or certified service provider is unable to determine the local  
2696 taxing jurisdiction within which the transaction is located under Subsection (10)(a).

2697 (11) (a) As used in this Subsection (11), "florist delivery transaction" means a  
2698 transaction commenced by a florist that transmits an order:

2699 (i) by:

2700 (A) telegraph;

2701 (B) telephone; or

2702 (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

2703 (ii) for delivery to another place:

2704 (A) in this state; or

2705 (B) outside this state.

2706 (b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and  
2707 ending on December 31, 2009, the location of a florist delivery transaction is the business  
2708 location of the florist that commences the florist delivery transaction.

2709 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2710 commission may by rule:

2711 (i) define:

2712 (A) "business location"; and

2713 (B) "florist";

2714 (ii) define what constitutes a means of communication similar to Subsection  
2715 (11)(a)(i)(A) or (B); and

2716 (iii) provide procedures for determining when a transaction is commenced.

2717 (12) (a) A tax collected under this chapter shall be reported to the commission on a  
2718 form that identifies the location of each transaction that occurs during the return filing period.

2719 (b) The form described in Subsection (12)(a) shall be filed with the commission as  
2720 required under this chapter.

2721 (13) This section does not apply to:

2722 (a) amounts charged by a seller for:

2723 (i) telecommunications service; or

2724 (ii) the retail sale or transfer of:

- 2725 (A) a motor vehicle other than a motor vehicle that is transportation equipment;
- 2726 (B) an aircraft other than an aircraft that is transportation equipment;
- 2727 (C) a watercraft;
- 2728 (D) a modular home;
- 2729 (E) a manufactured home; or
- 2730 (F) a mobile home; or
- 2731 (iii) except as provided in Section 59-12-214, the lease or rental of tangible personal
- 2732 property other than tangible personal property that is transportation equipment;
- 2733 (b) a tax paid under this chapter:
- 2734 (i) by a seller; and
- 2735 (ii) for the seller's purchases; or
- 2736 (c) a retail sale of tangible personal property or a product transferred electronically if:
- 2737 (i) the seller receives the order for the tangible personal property or product transferred
- 2738 electronically in this state;
- 2739 (ii) receipt of the tangible personal property or product transferred electronically by the
- 2740 purchaser or the purchaser's donee occurs in this state;
- 2741 (iii) the location where receipt of the tangible personal property or product transferred
- 2742 electronically by the purchaser occurs is determined in accordance with Subsections (3)
- 2743 through (5); and
- 2744 (iv) at the time the seller receives the order, the record keeping system that the seller
- 2745 uses to calculate the proper amount of tax imposed under this chapter captures the location
- 2746 where the order is received.

2747 Section 12. Section **59-12-603** is amended to read:

2748 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**  
 2749 **ordinance required -- Advisory board -- Administration -- Collection -- Distribution --**  
 2750 **Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

2751 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this  
 2752 part, impose a tax as follows:

- 2753 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%
- 2754 on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases
- 2755 and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor

2756 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

2757 (B) beginning on or after January 1, 1999, a county legislative body of any county  
 2758 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under  
 2759 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals  
 2760 of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made  
 2761 for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant  
 2762 to a repair or an insurance agreement; and

2763 [~~(ii) a county legislative body of any county may impose a tax of not to exceed 1% of~~  
 2764 ~~all sales of the following that are sold by a restaurant:]~~

2765 [~~(A) alcoholic beverages;~~]

2766 [~~(B) food and food ingredients; or~~]

2767 [~~(C) prepared food; and~~]

2768 [~~(iii)~~] (ii) a county legislative body of a county of the first class may impose a tax of  
 2769 not to exceed .5% on charges for the accommodations and services described in Subsection  
 2770 59-12-103(1)(i).

2771 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section  
 2772 17-31-5.5.

2773 (2) (a) Subject to Subsection (2)(b), revenue collected from the imposition of [~~the~~  
 2774 ~~taxes~~] a tax provided for in [~~Subsections~~] Subsection (1)(a)[~~(i) through (iii)~~] may be [~~used~~]  
 2775 expended for:

2776 (i) financing tourism promotion; and

2777 (ii) the development, operation, and maintenance of:

2778 (A) an airport facility;

2779 (B) a convention facility;

2780 (C) a cultural facility;

2781 (D) a recreation facility; or

2782 (E) a tourist facility.

2783 (b) A county of the first class shall expend at least \$450,000 each year of the revenues  
 2784 from the imposition of a tax authorized by Subsection (1)(a)[~~(iii)~~](ii) within the county to fund  
 2785 a marketing and ticketing system designed to:

2786 (i) promote tourism in ski areas within the county by persons that do not reside within

2787 the state; and

2788 (ii) combine the sale of:

2789 (A) ski lift tickets; and

2790 (B) accommodations and services described in Subsection 59-12-103(1)(i).

2791 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other  
2792 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local  
2793 Government Bonding Act, or a community development and renewal agency under Title 17C,  
2794 Chapter 1, Part 5, Agency Bonds, to finance:

2795 (a) an airport facility;

2796 (b) a convention facility;

2797 (c) a cultural facility;

2798 (d) a recreation facility; or

2799 (e) a tourist facility.

2800 (4) (a) In order to impose the tax under Subsection (1), each county legislative body  
2801 shall adopt an ordinance imposing the tax.

2802 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the  
2803 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on  
2804 those items and sales described in Subsection (1).

2805 (c) The name of the county as the taxing agency shall be substituted for that of the state  
2806 where necessary, and an additional license is not required if one has been or is issued under  
2807 Section 59-12-106.

2808 (5) In order to maintain in effect its tax ordinance adopted under this part, each county  
2809 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,  
2810 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable  
2811 amendments to Part 1, Tax Collection.

2812 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory  
2813 board in accordance with Section 17-31-8, the county legislative body of the county of the first  
2814 class shall create a tax advisory board in accordance with this Subsection (6).

2815 (b) The tax advisory board shall be composed of nine members appointed as follows:

2816 (i) four members shall be appointed by the county legislative body of the county of the  
2817 first class as follows:

- 2818 (A) one member shall be a resident of the unincorporated area of the county;
- 2819 (B) two members shall be residents of the incorporated area of the county; and
- 2820 (C) one member shall be a resident of the unincorporated or incorporated area of the
- 2821 county; and
- 2822 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
- 2823 towns within the county of the first class appointed by an organization representing all mayors
- 2824 of cities and towns within the county of the first class.
- 2825 (c) Five members of the tax advisory board constitute a quorum.
- 2826 (d) The county legislative body of the county of the first class shall determine:
- 2827 (i) terms of the members of the tax advisory board;
- 2828 (ii) procedures and requirements for removing a member of the tax advisory board;
- 2829 (iii) voting requirements, except that action of the tax advisory board shall be by at
- 2830 least a majority vote of a quorum of the tax advisory board;
- 2831 (iv) chairs or other officers of the tax advisory board;
- 2832 (v) how meetings are to be called and the frequency of meetings; and
- 2833 (vi) the compensation, if any, of members of the tax advisory board.
- 2834 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
- 2835 body of the county of the first class on the expenditure of revenues collected within the county
- 2836 of the first class from the taxes described in Subsection (1)(a).
- 2837 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
- 2838 shall be administered, collected, and enforced in accordance with:
- 2839 (A) the same procedures used to administer, collect, and enforce the tax under:
- 2840 (I) Part 1, Tax Collection; or
- 2841 (II) Part 2, Local Sales and Use Tax Act; and
- 2842 (B) Chapter 1, General Taxation Policies.
- 2843 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
- 2844 Subsections 59-12-205(2) through (6).
- 2845 (b) Except as provided in Subsection (7)(c):
- 2846 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
- 2847 commission shall distribute the revenues to the county imposing the tax; and
- 2848 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues

2849 according to the distribution formula provided in Subsection (8).

2850 (c) The commission shall deduct from the distributions under Subsection (7)(b) an  
2851 administrative charge for collecting the tax as provided in Section 59-12-206.

2852 (8) The commission shall distribute the revenues generated by the tax under Subsection  
2853 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the  
2854 following formula:

2855 (a) the commission shall distribute 70% of the revenues based on the percentages  
2856 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by  
2857 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

2858 (b) the commission shall distribute 30% of the revenues based on the percentages  
2859 generated by dividing the population of each county collecting a tax under Subsection  
2860 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

2861 (9) (a) For purposes of this Subsection (9):

2862 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
2863 ~~[Annexation to County]~~ County Consolidations and Annexations.

2864 (ii) "Annexing area" means an area that is annexed into a county.

2865 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county  
2866 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or  
2867 change shall take effect:

2868 (A) on the first day of a calendar quarter; and

2869 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2870 the requirements of Subsection (9)(b)(ii) from the county.

2871 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

2872 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

2873 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

2874 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

2875 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2876 (9)(b)(ii)(A), the rate of the tax.

2877 (c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of  
2878 the first billing period:

2879 (A) that begins after the effective date of the enactment of the tax or the tax rate

2880 increase; and

2881 (B) if the billing period for the transaction begins before the effective date of the  
2882 enactment of the tax or the tax rate increase imposed under Subsection (1).

2883 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
2884 billing period:

2885 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
2886 and

2887 (B) if the billing period for the transaction begins before the effective date of the repeal  
2888 of the tax or the tax rate decrease imposed under Subsection (1).

2889 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or  
2890 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a  
2891 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

2892 (A) on the first day of a calendar quarter; and

2893 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2894 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

2895 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

2896 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,  
2897 repeal, or change in the rate of a tax under this part for the annexing area;

2898 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

2899 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

2900 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
2901 (9)(d)(ii)(A), the rate of the tax.

2902 (e) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of  
2903 the first billing period:

2904 (A) that begins after the effective date of the enactment of the tax or the tax rate  
2905 increase; and

2906 (B) if the billing period for the transaction begins before the effective date of the  
2907 enactment of the tax or the tax rate increase imposed under Subsection (1).

2908 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
2909 billing period:

2910 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

2911 and

2912 (B) if the billing period for the transaction begins before the effective date of the repeal  
2913 of the tax or the tax rate decrease imposed under Subsection (1).

2914 Section 13. Section **59-12-703** is amended to read:

2915 **59-12-703. Base -- Rate -- Imposition of tax -- Expenditure of tax revenues**  
2916 **collected -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

2917 (1) (a) (i) A county legislative body may [~~submit an opinion question to the residents of~~  
2918 ~~that county, by majority vote of all members of the legislative body, so that each resident of the~~  
2919 ~~county, except residents in municipalities that have already imposed a sales and use tax under~~  
2920 ~~Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological~~  
2921 ~~Organizations or Facilities, has an opportunity to express the resident's opinion on the~~  
2922 ~~imposition of a local] by a majority vote of the members of the county legislative body impose  
2923 a sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located  
2924 within the county, [to fund recreational and zoological facilities, botanical, cultural, and  
2925 zoological organizations, and rural radio stations, in that county] including the cities and towns  
2926 located in the county.~~

2927 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a  
2928 tax under this section on:

2929 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2930 are exempt from taxation under Section 59-12-104; and

2931 [~~(B) sales and uses within municipalities that have already imposed a sales and use tax~~  
2932 ~~under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and~~  
2933 ~~Zoological Organizations or Facilities; and]~~

2934 [~~(C)~~ (B) except as provided in Subsection (1)(c), amounts paid or charged for food  
2935 and food ingredients.

2936 (b) For purposes of this Subsection (1), the location of a transaction shall be  
2937 determined in accordance with Sections 59-12-211 through 59-12-215.

2938 (c) A county legislative body imposing a tax under this section shall impose the tax on  
2939 amounts paid or charged for food and food ingredients if the food and food ingredients are sold  
2940 as part of a bundled transaction attributable to food and food ingredients and tangible personal  
2941 property other than food and food ingredients.

2942           ~~[(d) The election shall follow the procedures outlined in Title 11, Chapter 14, Local~~  
 2943 ~~Government Bonding Act.]~~

2944           ~~[(2) (a) If the county legislative body determines that a majority of the county's~~  
 2945 ~~registered voters voting on the imposition of the tax have voted in favor of the imposition of~~  
 2946 ~~the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a~~  
 2947 ~~majority vote of all members of the legislative body on the transactions:]~~

2948           ~~[(i) described in Subsection (1); and]~~

2949           ~~[(ii) within the county, including the cities and towns located in the county, except~~  
 2950 ~~those cities and towns that have already imposed a sales and use tax under Part 14, City or~~  
 2951 ~~Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or~~  
 2952 ~~Facilities:]~~

2953           ~~[(b) A county legislative body may revise county ordinances to reflect statutory~~  
 2954 ~~changes to the distribution formula or eligible recipients of revenues generated from a tax~~  
 2955 ~~imposed under Subsection (2)(a):]~~

2956           ~~[(i) after the county legislative body submits an opinion question to residents of the~~  
 2957 ~~county in accordance with Subsection (1) giving them the opportunity to express their opinion~~  
 2958 ~~on the proposed revisions to county ordinances; and]~~

2959           ~~[(ii) if the county legislative body determines that a majority of those voting on the~~  
 2960 ~~opinion question have voted in favor of the revisions:]~~

2961           ~~[(3)]~~ (2) ~~[The monies generated from any]~~ Subject to Section 59-12-704, the revenues  
 2962 collected from a tax imposed under [Subsection (2)] this section shall be [used for funding]  
 2963 expended as follows:

2964           (a) a county legislative body of a county of the first class shall expend revenues  
 2965 collected from a tax imposed under this section to fund:

2966           ~~[(a)]~~ (i) recreational facilities and zoological facilities located within the county or a  
 2967 city or town located in the county~~[-except a city or town that has already imposed a sales and~~  
 2968 ~~use tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and~~  
 2969 ~~Zoological Organizations or Facilities]; and~~

2970           ~~[(b)]~~ (ii) ongoing operating expenses of:

2971           ~~[(i)]~~ (A) recreational facilities described in Subsection ~~[(3)(a)]~~ (2)(a)(i);

2972           ~~[(ii)]~~ (B) botanical, cultural, and zoological organizations within the county; and

2973           ~~[(iii)]~~ (C) rural radio stations within the county[-]; or  
2974           (b) a county of the second, third, fourth, fifth, or sixth class shall:  
2975           (i) deposit the revenues collected from a tax imposed under this section into the  
2976 county's general fund; and  
2977           (ii) expend the revenues collected from a tax imposed under this section for the same  
2978 purposes for which the county expends the county's general fund revenues.  
2979           ~~[(4)]~~ (3) (a) ~~[(A)]~~ Except as provided in Subsection (3)(b), a tax authorized under this  
2980 part shall be~~[-(i) except as provided in Subsection (4)(b);]~~ administered, collected, and  
2981 enforced in accordance with:  
2982           ~~[(A)]~~ (i) the same procedures used to administer, collect, and enforce the tax under:  
2983           ~~[(F)]~~ (A) Part 1, Tax Collection; or  
2984           ~~[(H)]~~ (B) Part 2, Local Sales and Use Tax Act; and  
2985           ~~[(B)]~~ (ii) Chapter 1, General Taxation Policies~~[-and]~~.  
2986           ~~[(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year~~  
2987 ~~period in accordance with this section.]~~  
2988           (b) ~~[(Notwithstanding Subsection (4)(a)(i), a)]~~ A tax under this part is not subject to  
2989 Subsections 59-12-205(2) through (6).  
2990           ~~[(5)]~~ (4) (a) For purposes of this Subsection ~~[(5)]~~ (4):  
2991           (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
2992 ~~[(Annexation to County)]~~ County Consolidations and Annexations.  
2993           (ii) "Annexing area" means an area that is annexed into a county.  
2994           (b) (i) Except as provided in Subsection ~~[(5)]~~ (4)(c) or (d), if~~[-on or after July 1, 2004,]~~  
2995 a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:  
2996           (A) on the first day of a calendar quarter; and  
2997           (B) after a 90-day period beginning on the date the commission receives notice meeting  
2998 the requirements of Subsection ~~[(5)]~~ (4)(b)(ii) from the county.  
2999           (ii) The notice described in Subsection ~~[(5)]~~ (4)(b)(i)(B) shall state:  
3000           (A) that the county will enact or repeal a tax under this part;  
3001           (B) the statutory authority for the tax described in Subsection ~~[(5)]~~ (4)(b)(ii)(A);  
3002           (C) the effective date of the tax described in Subsection ~~[(5)]~~ (4)(b)(ii)(A); and  
3003           (D) if the county enacts the tax described in Subsection ~~[(5)]~~ (4)(b)(ii)(A), the rate of

3004 the tax.

3005 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:

3006 (A) that begins after the effective date of the enactment of the tax; and

3007 (B) if the billing period for the transaction begins before the effective date of the

3008 enactment of the tax under this section.

3009 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

3010 (A) that began before the effective date of the repeal of the tax; and

3011 (B) if the billing period for the transaction begins before the effective date of the repeal

3012 of the tax imposed under this section.

3013 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of

3014 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in

3015 Subsection [~~5~~] (4)(b)(i) takes effect:

3016 (A) on the first day of a calendar quarter; and

3017 (B) beginning 60 days after the effective date of the enactment or repeal under

3018 Subsection [~~5~~] (4)(b)(i).

3019 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3020 commission may by rule define the term "catalogue sale."

3021 (e) (i) Except as provided in Subsection [~~5~~] (4)(f) or (g), if, for an annexation that

3022 occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax

3023 under this part for an annexing area, the enactment or repeal shall take effect:

3024 (A) on the first day of a calendar quarter; and

3025 (B) after a 90-day period beginning on the date the commission receives notice meeting

3026 the requirements of Subsection [~~5~~] (4)(e)(ii) from the county that annexes the annexing area.

3027 (ii) The notice described in Subsection [~~5~~] (4)(e)(i)(B) shall state:

3028 (A) that the annexation described in Subsection [~~5~~] (4)(e)(i) will result in an

3029 enactment or repeal of a tax under this part for the annexing area;

3030 (B) the statutory authority for the tax described in Subsection [~~5~~] (4)(e)(ii)(A);

3031 (C) the effective date of the tax described in Subsection [~~5~~] (4)(e)(ii)(A); and

3032 (D) the rate of the tax described in Subsection [~~5~~] (4)(e)(ii)(A).

3033 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

3034 (A) that begins after the effective date of the enactment of the tax; and

3035 (B) if the billing period for the transaction begins before the effective date of the  
3036 enactment of the tax under this section.

3037 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

3038 (A) that began before the effective date of the repeal of the tax; and

3039 (B) if the billing period for the transaction begins before the effective date of the repeal  
3040 of the tax imposed under this section.

3041 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
3042 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
3043 Subsection ~~[(5)]~~ (4)(e)(i) takes effect:

3044 (A) on the first day of a calendar quarter; and

3045 (B) beginning 60 days after the effective date of the enactment or repeal under  
3046 Subsection ~~[(5)]~~ (4)(e)(i).

3047 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3048 commission may by rule define the term "catalogue sale."

3049 Section 14. Section **59-12-704** is amended to read:

3050 **59-12-704. Distribution of revenues -- Advisory board creation -- Determining**  
3051 **operating expenses.**

3052 (1) Except as provided in Subsections (3)(b) and (5), and subject to ~~[the requirements~~  
3053 ~~of this section]~~ Subsection (7), ~~[any]~~ revenues collected by a county of the first class under this  
3054 part shall be distributed annually by the county legislative body ~~[to support recreational and~~  
3055 ~~zoological facilities and botanical, cultural, and zoological organizations]~~ for a purpose  
3056 described in Subsection 59-12-703(2)(a) within that ~~[first class]~~ county of the first class as  
3057 follows:

3058 (a) 30% of the revenue collected by the county under this section shall be distributed  
3059 by the county legislative body to support recreational facilities located within the county;

3060 (b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii),  
3061 12-1/8% of the revenue collected by the county under this section shall be distributed by the  
3062 county legislative body to support no more than three zoological facilities and organizations  
3063 located within the county, with 94.5% of that revenue being distributed to zoological facilities  
3064 and organizations with average annual operating expenses of \$2,000,000 or more and 5.5% of  
3065 that revenue being distributed to zoological facilities and organizations with average annual

3066 operating expenses of less than \$2,000,000;

3067 (ii) except as provided in Subsection (1)(b)(iii), the county legislative body shall  
3068 distribute the monies described in Subsection (1)(b)(i) among the zoological facilities and  
3069 organizations in proportion to their average annual operating expenses as determined under  
3070 Subsection (3); and

3071 (iii) if a zoological facility or organization is created or relocated within the county  
3072 after June 1, 2003, the county legislative body shall distribute the monies described in  
3073 Subsection (1)(b)(i) as it determines appropriate;

3074 (c) (i) 48-7/8% of the revenue collected by the county under this section shall be  
3075 distributed to no more than 23 botanical and cultural organizations with average annual  
3076 operating expenses of more than \$250,000 as determined under Subsection (3);

3077 (ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the  
3078 monies described in Subsection (1)(c)(i) among the organizations and in proportion to their  
3079 average annual operating expenses as determined under Subsection (3); and

3080 (iii) the amount distributed to any organization described in Subsection (1)(c)(i) may  
3081 not exceed 35% of the organization's operating budget; and

3082 (d) (i) 9% of the revenue collected by the county under this section shall be distributed  
3083 to botanical and cultural organizations that do not receive revenue under Subsection (1)(c)(i);  
3084 and

3085 (ii) the county legislative body shall determine how the monies shall be distributed  
3086 among the organizations described in Subsection (1)(d)(i).

3087 (2) (a) The county legislative body of each county of the first class that imposes a sales  
3088 and use tax under this part shall create an advisory board to advise the county legislative body  
3089 on disbursement of funds to botanical and cultural organizations under Subsection (1)(c)(i).

3090 (b) (i) The advisory board under Subsection (2)(a) shall consist of seven members  
3091 appointed by the county legislative body.

3092 (ii) In a county of the first class, two of the seven members of the advisory board under  
3093 Subsection (2)(a) shall be appointed from the Utah Arts Council.

3094 (3) (a) Except as provided in Subsection (3)(b), to be eligible to receive monies  
3095 collected by the county under this part, a botanical, cultural, and zoological organization  
3096 located within a county of the first class shall, every three years:

3097 (i) calculate their average annual operating expenses based upon audited operating  
3098 expenses for three preceding fiscal years; and

3099 (ii) submit to the appropriate county legislative body:

3100 (A) a verified audit of annual operating expenses for each of those three preceding  
3101 fiscal years; and

3102 (B) the average annual operating expenses as calculated under Subsection (3)(a)(i).

3103 (b) ~~[Notwithstanding Subsection (3)(a), the]~~ The county legislative body described in  
3104 Subsection (3)(a)(ii) may waive the operating expenses reporting requirements under  
3105 Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

3106 (4) When calculating average annual operating expenses as described in Subsection  
3107 (3), each botanical, cultural, and zoological organization shall use the same three-year fiscal  
3108 period as determined by the county legislative body.

3109 (5) (a) By July 1 of each year, the county legislative body of a first class county may  
3110 index the threshold amount in Subsections (1)(c) and (d).

3111 (b) Any change under Subsection (5)(a) shall be rounded off to the nearest \$100.

3112 ~~[(6)(a) Beginning on July 1, 2001, in a county except for a county of the first class, the~~  
3113 ~~county legislative body shall by ordinance provide for the distribution of the entire amount of~~  
3114 ~~the revenues generated by the tax imposed by this section as provided in this Subsection (6).]~~

3115 ~~[(b) Pursuant to an interlocal agreement established in accordance with Title 11,~~  
3116 ~~Chapter 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute~~  
3117 ~~to a city, town, or political subdivision within the county revenues generated by a tax under this~~  
3118 ~~part.]~~

3119 ~~[(c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or~~  
3120 ~~more organizations or facilities defined in Section 59-12-702 regardless of whether the~~  
3121 ~~revenues are distributed:]~~

3122 ~~[(i) directly by the county described in Subsection (6)(a) to be used for an organization~~  
3123 ~~or facility defined in Section 59-12-702; or]~~

3124 ~~[(ii) in accordance with an interlocal agreement described in Subsection (6)(b).]~~

3125 (6) (a) A county legislative body that imposes a tax under this part shall transfer  
3126 revenues collected from the tax under this part as provided in Subsection (6)(b) to a city  
3127 legislative body or town legislative body if, on July 1, 2010, the city or town imposes a city or

3128 town option sales and use tax:

3129 (i) for botanical, cultural, recreational, and zoological organizations or facilities; and

3130 (ii) that is repealed by this bill.

3131 (b) For purposes of Subsection (6)(a), a county legislative body shall transfer to a city

3132 legislative body or a town legislative body:

3133 (i) if the city or town imposes the city or town option sales and use tax described in

3134 Subsection (6)(a) for the entire fiscal year 2009-10, the amount of revenues the city or town

3135 collects from the city or town option sales and use tax described in Subsection (6)(a) for fiscal

3136 year 2009-10; or

3137 (ii) if the city or town does not impose the city or town option sales and use tax

3138 described in Subsection (6)(a) for the entire fiscal year 2009-10, the amount of revenues the

3139 commission estimates the city or town would have collected from the city or town option sales

3140 and use tax described in Subsection (6)(a) had the city or town collected that city or town

3141 option sales and use tax for the entire fiscal year 2009-10.

3142 (c) Subject to Subsection (6)(d), a city legislative body or town legislative body that

3143 receives a transfer of revenues under this Subsection (6) shall by ordinance provide for the

3144 distribution of the entire amount of the revenues the city legislative body or town legislative

3145 body receives.

3146 (d) A city legislative body or town legislative body that receives a transfer of revenues

3147 under this section shall expend the revenues the city legislative body or town legislative body

3148 receives for one or more of the following:

3149 (i) a botanical organization;

3150 (ii) a cultural organization;

3151 (iii) a recreational facility;

3152 (iv) a zoological facility; or

3153 (v) a zoological organization.

3154 (7) A county legislative body may retain up to [~~1.5%~~] 1.50% of the proceeds from a tax

3155 under this part for the cost of administering [~~the provisions of~~] this part.

3156 (8) The commission may retain an amount not to exceed [~~1-1/2%~~] 1.50% of the tax

3157 collected under this part for the cost of administering this part.

3158 Section 15. Section **59-12-1201** is amended to read:

3159           **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**  
3160 **collection, and enforcement of tax -- Administrative fee -- Deposits.**

3161           (1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all  
3162 short-term leases and rentals of motor vehicles not exceeding 30 days.

3163           (b) The tax imposed in this section is in addition to all other state, county, or municipal  
3164 fees and taxes imposed on rentals of motor vehicles.

3165           (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax  
3166 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

3167           (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall  
3168 take effect on the first day of the first billing period:

3169                   (A) that begins after the effective date of the tax rate increase; and

3170                   (B) if the billing period for the transaction begins before the effective date of a tax rate  
3171 increase imposed under Subsection (1).

3172           (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax  
3173 rate decrease shall take effect on the first day of the last billing period:

3174                   (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
3175 and

3176                   (B) if the billing period for the transaction begins before the effective date of the repeal  
3177 of the tax or the tax rate decrease imposed under Subsection (1).

3178           (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

3179                   (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

3180                   (b) the motor vehicle is rented as a personal household goods moving van; or

3181                   (c) the lease or rental of the motor vehicle is made for the purpose of temporarily  
3182 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an  
3183 insurance agreement.

3184           (4) (a) (i) The tax authorized under this section shall be administered, collected, and  
3185 enforced in accordance with:

3186                   (A) the same procedures used to administer, collect, and enforce the tax under Part 1,  
3187 Tax Collection; and

3188                   (B) Chapter 1, General Taxation Policies.

3189           (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to

3190 Subsections 59-12-103(4) through ~~[(12)]~~ (14) or Section 59-12-107.1 or 59-12-123.

3191 (b) The commission may retain a maximum of 1-1/2% of the tax collected under this  
3192 section for the costs of rendering its services under this section.

3193 (c) Except as provided under Subsection (4)(b), all revenue received by the  
3194 commission under this section shall be deposited daily with the state treasurer and credited  
3195 monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section  
3196 72-2-117.

3197 Section 16. Section **59-12-1802** is amended to read:

3198 **59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into**  
3199 **General Fund.**

3200 (1) (a) If a county does not impose a tax under [Part 11, County Option Sales and Use  
3201 Tax, a tax shall be imposed] the following sections, the state shall impose a tax within the  
3202 county under this section [by the state: (a)] on the transactions described in Subsection  
3203 59-12-103(1); beginning on January 1, 2011, and ending on the date the county imposes a tax  
3204 under the following sections:

3205 (i) Section 59-12-703; and

3206 (ii) Section 59-12-1102.

3207 (b) [at a rate of .25%; and] Except as provided in Subsection (1)(c) or Subsection (2),  
3208 for purposes of Subsection (1)(a), the rate of the state tax is equal to the difference between:

3209 (i) .35%; and

3210 (ii) the sum of the tax rates the county described in Subsection (1)(a) imposes under:

3211 (A) Section 59-12-703; and

3212 (B) Section 59-12-1102.

3213 [(c) beginning on January 1, 2008, and ending on the day on which the county imposes  
3214 a tax under Part 11, County Option Sales and Use Tax.]

3215 (c) For purposes of Subsection (1)(a), for amounts paid or charged for food and food  
3216 ingredients that are not sold as part of a bundled transaction attributable to food and food  
3217 ingredients and tangible personal property other than food and food ingredients, the rate of the  
3218 state tax is equal to the difference between:

3219 (i) .25%; and

3220 (ii) the tax rate a county imposes under Section 59-12-1102.

3221 (2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the  
 3222 sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from  
 3223 taxation under Section 59-12-104.

3224 (3) For purposes of Subsection (1), the location of a transaction shall be determined in  
 3225 accordance with Sections 59-12-211 through 59-12-215.

3226 (4) Revenues collected from the sales and use tax imposed by this section, after  
 3227 subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited  
 3228 into the General Fund.

3229 Section 17. Section **59-12-2003** is amended to read:

3230 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**  
 3231 **transit districts and the Transportation Fund.**

3232 (1) Subject to the other provisions of this section and except as provided in Subsection  
 3233 ~~[(2) or (4)] (3)~~, beginning on ~~[July 1, 2008]~~ January 1, 2011, the state shall impose a tax under  
 3234 this part on the transactions described in Subsection 59-12-103(1) within a city, town, or the  
 3235 unincorporated area of a county ~~[of the first or second class if, on January 1, 2008, there is a~~  
 3236 ~~public transit district within any portion of that county of the first or second class.]~~ if within  
 3237 any city, town, or unincorporated area of the county the sum of the tax rates under any  
 3238 combination of the following sales and use taxes totals less than .85%:

3239 (a) a sales and use tax under Section 59-12-501;

3240 (b) a sales and use tax under Section 59-12-502;

3241 (c) a sales and use tax under Section 59-12-1001;

3242 (d) a sales and use tax under Section 59-12-1503;

3243 (e) a sales and use tax under Section 59-12-1703; or

3244 (f) a sales and use tax under Section 59-12-1903.

3245 ~~[(2) The state may not impose a tax under this part within a county of the first or~~  
 3246 ~~second class if within all of the cities, towns, and the unincorporated area of the county of the~~  
 3247 ~~first or second class there is imposed a sales and use tax of:]~~

3248 ~~[(a) .30% under Section 59-12-501;]~~

3249 ~~[(b) .30% under Section 59-12-1001; or]~~

3250 ~~[(c) .30% under Section 59-12-1503.]~~

3251 ~~[(3)]~~ (2) (a) Subject to Subsection ~~[(3)]~~ (2)(b), if the state imposes a tax under this part,

3252 the tax rate imposed within a city, town, or the unincorporated area of a county [~~of the first or~~  
 3253 ~~second class~~] is a percentage equal to the difference between:

3254 (i) [~~.30%~~] .85%; and

3255 [~~(ii) (A) for a city within the county of the first or second class, the highest tax rate~~

3256 ~~imposed within that city under:]~~

3257 [~~(F) Section 59-12-501;~~

3258 [~~(H) Section 59-12-1001; or]~~

3259 [~~(HH) Section 59-12-1503;~~

3260 [~~(B) for a town within the county of the first or second class, the highest tax rate~~

3261 ~~imposed within that town under:]~~

3262 [~~(F) Section 59-12-501;~~

3263 [~~(H) Section 59-12-1001; or]~~

3264 [~~(HH) Section 59-12-1503; or]~~

3265 [~~(C) for the unincorporated area of the county of the first or second class, the highest~~

3266 ~~tax rate imposed within that unincorporated area under:]~~

3267 [~~(F) Section 59-12-501;~~

3268 [~~(H) Section 59-12-1001; or]~~

3269 [~~(HH) Section 59-12-1503;~~

3270 (ii) for each city, town, or unincorporated area within the county, the sum of the tax

3271 rates imposed within that city, town, or unincorporated area of the county under any

3272 combination of the following sales and use taxes:

3273 (A) a sales and use tax under Section 59-12-501;

3274 (B) a sales and use tax under Section 59-12-502;

3275 (C) a sales and use tax under Section 59-12-1001;

3276 (D) a sales and use tax under Section 59-12-1503;

3277 (E) a sales and use tax under Section 59-12-1703; or

3278 (F) a sales and use tax under Section 59-12-1903.

3279 (b) For purposes of Subsection [~~(3)~~] (2)(a), if for a city, town, or the unincorporated

3280 area of a county [~~of the first or second class, the highest tax rate imposed under Section~~

3281 ~~59-12-501, 59-12-1001, or 59-12-1503 within that city, town, or unincorporated area of the~~

3282 ~~county of the first or second class is .30%], the sum of the tax rates totals .85% under any~~

3283 combination of the sales and use taxes described in Subsection (2)(a)(ii), the state may not  
3284 impose a tax under this part within that city, town, or unincorporated area.

3285 [~~4~~] (3) (a) The state may not impose a tax under this part on:

3286 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
3287 are exempt from taxation under Section 59-12-104; or

3288 (ii) except as provided in Subsection [~~4~~] (3)(b), amounts paid or charged for food and  
3289 food ingredients.

3290 (b) The state shall impose a tax under this part on amounts paid or charged for food  
3291 and food ingredients if the food and food ingredients are sold as part of a bundled transaction  
3292 attributable to food and ingredients and tangible personal property other than food and food  
3293 ingredients.

3294 [~~5~~] (4) For purposes of Subsection (1), the location of a transaction shall be  
3295 determined in accordance with Sections 59-12-211 through 59-12-215.

3296 [~~6~~] (5) The commission shall distribute or deposit the revenues the state collects from  
3297 the sales and use tax under this part, after subtracting amounts a seller retains in accordance  
3298 with Section 59-12-108, as follows:

3299 (a) the commission shall distribute:

3300 (i) for the time period beginning on January 1, 2011, and ending on June 30, 2011,  
3301 \$1,425,000 of the revenues to the public transit districts within the cities, towns, and  
3302 unincorporated areas within counties of the first or second class:

3303 (A) within which the state imposes a tax under this part on December 31, 2010; and

3304 (B) in proportion to the revenues collected for fiscal year 2008-09 from the sales and  
3305 use tax under this part within each city, town, and unincorporated area within counties of the  
3306 first or second class within which the state imposes a tax under this part on December 31,  
3307 2010; and

3308 (ii) for a fiscal year beginning with fiscal year 2011-12, \$2,850,000 of the revenues to  
3309 the public transit districts within the cities, towns, and unincorporated areas within counties of  
3310 the first or second class:

3311 [~~a~~] (A) within which the state imposes a tax under this part on December 31, 2010;  
3312 and

3313 [~~b~~] (B) in proportion to the revenues collected for fiscal year 2008-09 from the sales

3314 and use tax under this part within each city, town, and unincorporated area within counties of  
3315 the first or second class within which the state imposes a tax under this part[-] on December 31,  
3316 2010; and

3317 (b) after making the distributions required under Subsection (5)(a), the commission  
3318 shall deposit the remaining revenues the state collects from the sales and use tax under this part  
3319 into the Transportation Fund.

3320 Section 18. Section **63H-1-102** is amended to read:

3321 **63H-1-102. Definitions.**

3322 As used in this chapter:

3323 (1) "Authority" means the Military Installation Development Authority, created under  
3324 Section 63H-1-201.

3325 (2) "Base taxable value" means the taxable value of the property within any portion of  
3326 the project area, as designated by board resolution, from which tax increment will be collected,  
3327 as shown upon the assessment roll last equalized before the year in which the authority issues a  
3328 certificate of occupancy for a building within that portion of the project area.

3329 (3) "Board" means the governing body of the authority created under Section  
3330 63H-1-301.

3331 (4) "Dedicated supplemental tax increment" means supplemental tax increment that  
3332 results from a property tax levied by:

3333 (a) a county, including any district the county has established under Subsection  
3334 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to  
3335 Unincorporated Areas; or

3336 (b) an included municipality.

3337 (5) "Development project" means a project to develop land within a project area.

3338 (6) "Elected member" means a member of the authority board who:

3339 (a) is a mayor appointed under Subsection 63H-1-302(2)(b); or

3340 (b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and  
3341 (ii) concurrently serves in an elected state, county, or municipal office.

3342 (7) "Included municipality" means a municipality, some or all of which is included  
3343 within a project area.

3344 (8) "Military land" means any land or facility, including any leased land or facility, that

3345 is part of a base, camp, post, station, yard, center, or installation under the jurisdiction of the  
3346 U.S. Department of Defense or the Utah National Guard.

3347 (9) "Municipal energy tax" means a municipal energy sales and use tax under Title 10,  
3348 Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

3349 (10) "Municipal services revenue" means revenue that the authority:

3350 (a) collects from the authority's:

3351 (i) levy of a municipal energy tax;

3352 (ii) levy of a telecommunications tax; and

3353 (iii) imposition of a transient room tax;

3354 (b) receives under Subsection 59-12-205(2)~~(b)(ii)~~(d)(ii)(B); and

3355 (c) receives as dedicated supplemental tax increment.

3356 (11) "Municipal tax" means a municipal energy tax, telecommunications tax, or  
3357 transient room tax.

3358 (12) "Project area" means the land, including military land, whether consisting of a  
3359 single contiguous area or multiple noncontiguous areas, described in a project area plan or draft  
3360 project area plan where the development project set forth in the project area plan or draft  
3361 project area plan takes place or is proposed to take place.

3362 (13) "Project area budget" means a multiyear projection of annual or cumulative  
3363 revenues and expenses and other fiscal matters pertaining to a project area that includes:

3364 (a) the base taxable value of property in the project area;

3365 (b) the projected tax increment expected to be generated within the project area;

3366 (c) the amount of tax increment expected to be shared with other taxing entities;

3367 (d) the amount of tax increment expected to be used to implement the project area plan,  
3368 including the estimated amount of tax increment to be used for land acquisition, public  
3369 improvements, infrastructure improvements, and loans, grants, or other incentives to private  
3370 and public entities;

3371 (e) the tax increment expected to be used to cover the cost of administering the project  
3372 area plan;

3373 (f) if tax increment is to be collected at different times or from different portions of the  
3374 project area, or both:

3375 (i) (A) the tax identification numbers of the parcels from which tax increment will be

3376 collected; or  
3377 (B) a legal description of the portion of the project area from which tax increment will  
3378 be collected; and  
3379 (ii) an estimate of when other portions of the project area will become subject to tax  
3380 increment collection; and  
3381 (g) for property that the authority owns or leases and expects to sell or sublease, the  
3382 expected total cost of the property to the authority and the expected selling price or lease  
3383 payments.  
3384 (14) "Project area plan" means a written plan that, after its effective date, guides and  
3385 controls the development within a project area.  
3386 (15) "Property tax" includes privilege tax and each levy on an ad valorem basis on  
3387 tangible or intangible personal or real property.  
3388 (16) "Public entity" means:  
3389 (a) the state, including any of its departments or agencies; or  
3390 (b) a political subdivision of the state, including a county, city, town, school district,  
3391 local district, special service district, or interlocal cooperation entity.  
3392 (17) "Publicly owned infrastructure and improvements" means water, sewer, storm  
3393 drainage, electrical, telecommunications, and other similar systems and lines, streets, roads,  
3394 curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and other  
3395 buildings, facilities, infrastructure, and improvements benefitting the public and to be publicly  
3396 owned or publicly maintained or operated.  
3397 (18) "Remaining municipal services revenue" means municipal services revenue that  
3398 the authority has not spent during its fiscal year for municipal services as provided in  
3399 Subsection 63H-1-503(1).  
3400 (19) "Supplemental tax increment" means tax increment remaining after the authority  
3401 is paid the tax increment it is entitled to receive under Subsection 63H-1-501(1).  
3402 (20) "Taxable value" means the value of property as shown on the last equalized  
3403 assessment roll as certified by the county assessor.  
3404 (21) "Tax increment" means the difference between:  
3405 (a) the amount of property tax revenues generated each tax year by all taxing entities  
3406 from the area within a project area designated in the project area plan as the area from which

3407 tax increment is to be collected, using the current assessed value of the property; and

3408 (b) the amount of property tax revenues that would be generated from that same area  
3409 using the base taxable value of the property.

3410 (22) "Taxing entity" means a public entity that levies a tax on property within a project  
3411 area.

3412 (23) "Telecommunications tax" means a telecommunications license tax under Title  
3413 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

3414 (24) "Transient room tax" means a tax under Section 59-12-352.

3415 Section 19. Section **63M-1-1407** is enacted to read:

3416 **63M-1-1407. Definitions -- Tourism, Recreation, Cultural, Convention, and**  
3417 **Airport Facilities Fund -- Source of revenues -- Interest -- Distribution of revenues --**  
3418 **Expenditure of revenues -- Unexpended revenues lapse into the General Fund.**

3419 (1) As used in this section:

3420 (a) "Fiscal year" means a one-year period beginning on July 1 of each year.

3421 (b) "Fund" means the Tourism, Recreation, Cultural, Convention, and Airport  
3422 Facilities Fund created by this section.

3423 (c) "Qualifying tax" means a sales and use tax that:

3424 (i) a county legislative body imposes on sales of the following that are sold by a  
3425 restaurant:

3426 (A) alcoholic beverages;

3427 (B) food and food ingredients; and

3428 (C) prepared food; and

3429 (ii) is repealed by this bill.

3430 (2) There is created a restricted special revenue fund known as the "Tourism,

3431 Recreation, Cultural, Convention, and Airport Facilities Fund."

3432 (3) (a) The fund shall be funded by amounts deposited in accordance with Subsection  
3433 59-12-103(14).

3434 (b) Any interest earned on the fund shall be deposited into the General Fund.

3435 (4) Subject to Subsection (5), the director shall within a 30-day period after the last day  
3436 of a fiscal year distribute monies deposited into the fund to each county legislative body of a

3437 county that, on December 31, 2010, imposes a qualifying tax.

3438 (5) (a) For purposes of the distribution required by Subsection (4), the director shall:

3439 (i) estimate for each county described in Subsection (4) the amount of revenues that  
3440 would have been collected from a qualifying tax for fiscal year 2008-09 had the county  
3441 imposed the qualifying tax for the entire fiscal year 2008-09;

3442 (ii) calculate a percentage for each county described in Subsection (4) by dividing the  
3443 amount estimated for each county in accordance with Subsection (5)(a)(i) by the total amount  
3444 deposited in accordance with Subsection 59-12-103(14):

3445 (A) for the time period beginning on January 1, 2011, and ending on June 30, 2011, for  
3446 that time period; or

3447 (B) for a fiscal year beginning with fiscal year 2011-12, for that fiscal year; and

3448 (iii) distribute to each county described in Subsection (4) an amount equal to the  
3449 product of:

3450 (A) the percentage calculated in accordance with Subsection (5)(a)(ii); and

3451 (B) the total amount deposited in accordance with Subsection 59-12-103(14):

3452 (I) for the time period beginning on January 1, 2011, and ending on June 30, 2011, for  
3453 that time period; or

3454 (II) for a fiscal year beginning with fiscal year 2011-12, for that fiscal year.

3455 (b) The director shall make the estimates, calculations, and distributions required by  
3456 Subsection (5)(a) on the basis of data provided to the director by the State Tax Commission.

3457 (6) (a) Subject to Subsections (6)(b) and (c), a county legislative body shall expend the  
3458 monies the county legislative body receives in accordance with Subsection (5) for:

3459 (i) financing tourism promotion; and

3460 (ii) the development, operation, and maintenance of:

3461 (A) an airport facility;

3462 (B) a convention facility;

3463 (C) a cultural facility;

3464 (D) a recreation facility; or

3465 (E) a tourist facility.

3466 (b) Monies a county legislative body receives in accordance with Subsection (5) may  
3467 be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a  
3468 county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a

3469 community development and renewal agency under Title 17C, Chapter 1, Part 5, Agency

3470 Bonds, to finance:

3471 (i) an airport facility;

3472 (ii) a convention facility;

3473 (iii) a cultural facility;

3474 (iv) a recreation facility; or

3475 (v) a tourist facility.

3476 (c) A county legislative body shall expend or pledge the monies the county legislative

3477 body receives in accordance with Subsection (5):

3478 (i) for the same purposes described in Subsections (6)(a) and (b) that the county

3479 expends or pledges revenues collected from a qualifying tax on December 31, 2010; and

3480 (ii) in the same percentages of revenues collected from a qualifying tax that the county

3481 legislative body allocates to the purposes described in Subsections (6)(a) and (b) on December

3482 31, 2010.

3483 (7) Any monies remaining in the fund at the end of a fiscal year after the director

3484 makes the distributions required by this section shall lapse into the General Fund.

3485 **Section 20. Repealer.**

3486 This bill repeals:

3487 **Section 59-12-701, Purpose statement.**

3488 **Section 59-12-801, Definitions.**

3489 **Section 59-12-802, Imposition of rural county health care facilities tax --**

3490 **Expenditure of tax revenues -- Base -- Rate -- Administration, collection, and**

3491 **enforcement of tax.**

3492 **Section 59-12-803, Distribution of revenues generated by rural county health care**

3493 **facilities tax.**

3494 **Section 59-12-804, Imposition of rural city hospital tax -- Base -- Rate --**

3495 **Administration, collection, and enforcement of tax.**

3496 **Section 59-12-805, Distribution of revenues generated by rural city hospital tax.**

3497 **Section 59-12-806, Enactment or repeal of tax -- Tax rate change -- Effective date**

3498 **-- Notice requirements.**

3499 **Section 59-12-808, Seller or certified service provider reliance on commission**

3500 **information.**

3501           Section **59-12-809, Certified service provider or model 2 seller reliance on**  
3502 **commission certified software.**

3503           Section **59-12-810, Purchaser relief from liability.**

3504           Section **59-12-1301, Title.**

3505           Section **59-12-1302, Imposition of tax -- Base -- Rate -- Enactment or repeal of tax**  
3506 **-- Tax rate change -- Effective date -- Notice requirements.**

3507           Section **59-12-1304, Seller or certified service provider reliance on commission**  
3508 **information.**

3509           Section **59-12-1305, Certified service provider or model 2 seller reliance on**  
3510 **commission certified software.**

3511           Section **59-12-1306, Purchaser relief from liability.**

3512           Section **59-12-1401, Purpose statement -- Definitions -- Scope of part.**

3513           Section **59-12-1402, Opinion question election -- Base -- Rate -- Imposition of tax --**  
3514 **Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

3515           Section **59-12-1403, Distribution of revenues -- Administrative costs.**

3516           Section **59-12-1405, Seller or certified service provider reliance on commission**  
3517 **information.**

3518           Section **59-12-1406, Certified service provider or model 2 seller reliance on**  
3519 **commission certified software.**

3520           Section **59-12-1407, Purchaser relief from liability.**

3521           Section 21. **Effective date.**

3522           This bill takes effect on January 1, 2011.

3523           Section 22. **Revisor instructions.**

3524           It is the intent of the Legislature that, in preparing the Utah Code database for  
3525 publication, the Office of Legislative Research and General Counsel shall replace the  
3526 references in the following subsections from "this bill" to the bill's designated chapter and  
3527 section number in the Laws of Utah:

3528           (1) Subsection 26-9-4(1)(h);

3529           (2) Subsection 59-12-205(2)(c);

3530           (3) Subsection 59-12-704(6)(a)(ii); and

3531           (4) Subsection 63M-1-1407(1)(c)(ii).  
3532           Section 23. **Coordinating H.B. 148 with S.B. 30 -- Technical amendments.**  
3533           If this H.B. 148 and S.B. 30, Local Option Sales and Use Taxes for Transportation Act,  
3534 both pass, it is the intent of the Legislature that the Office of Legislative Research and General  
3535 Counsel, in preparing the Utah Code database for publication, change the references in  
3536 Subsections 59-12-2003(1) and (2):  
3537           (1) from "59-12-501" to "59-12-2213";  
3538           (2) from "59-12-502" to "59-12-2214";  
3539           (3) from "59-12-1001" to "59-12-2215";  
3540           (4) from "59-12-1503" to "59-12-2216";  
3541           (5) from "59-12-1703" to "59-12-2217"; and  
3542           (6) from "59-12-1903" to "59-12-2218."

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**Legislative Review Note**  
**as of 2-10-10 11:47 AM**

**Office of Legislative Research and General Counsel**

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**H.B. 148 - Sales and Use Tax Changes**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill could reduce the General Fund by \$1,823,000 in FY 2011 and by \$2,972,000 in FY 2012. The increase to current earmarks resulting from the provisions of the bill will be \$1,657,000 in FY 2011 and \$3,736,000 in FY 2012. Under the provisions of the bill the State will administer funding for the Rural Health Care Compensation Fund, and Restaurant Tax Revenue totaling \$19,800,000 in FY 2011 and \$39,600,000 in FY 2012 formerly administered by local governments.

	<u>FY 2010 Approp.</u>	<u>FY 2011 Approp.</u>	<u>FY 2012 Approp.</u>	<u>FY 2010 Revenue</u>	<u>FY 2011 Revenue</u>	<u>FY 2012 Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$1,823,000)	(\$2,972,000)
Restricted Funds	\$0	\$0	\$0	\$0	\$21,457,000	\$43,336,000
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$19,634,000</b>	<b>\$40,364,000</b>

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**Individual, Business and/or Local Impact**

Local sales tax revenues could increase by \$34,608,000 in FY 2011 and by \$71,569,000 in FY 2012 due to the provisions in the bill. There will be a corresponding decrease in property tax revenues. Individuals and businesses could see an increase in sales tax paid of .11 percent. There will be a tax decrease of 1 percent in the cost of restaurant purchases for individuals and businesses.